

NATIONAL MONETARY COMMISSION

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SUGGESTED CHANGES

IN THE

ADMINISTRATIVE FEATURES OF THE  
NATIONAL BANKING LAWS

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REPLIES TO CIRCULAR LETTER OF INQUIRY  
OF SEPTEMBER 26, 1908

AND

HEARINGS

DECEMBER 2 AND 3, 1908



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## NATIONAL MONETARY COMMISSION.

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## TABLE OF CONTENTS.

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### REPLIES TO CIRCULAR LETTER.

	Page
Letters sent to all national banks with questions to be answered.....	5-8
Replies of national-bank examiners. (For index <i>see</i> p. 181).....	9-41
Replies of clearing-house associations. (For index <i>see</i> p. 181).....	43-51
Replies of State bank officials. (For index <i>see</i> p. 181).....	53-56
Replies of bank officials in general. (For index <i>see</i> p. 183).....	57-180
Index:	
Replies of national-bank examiners.....	181
Replies of clearing-house associations.....	181
Replies of State bank officials.....	181
Replies of bank officials in general .....	183-190

### HEARINGS.

Statements of—	
Cortelyou, Hon. George B .....	195
Kane, Thomas P .....	196
Murray, Lawrence O .....	268
Reynolds, George M .....	294
Porter, William H .....	321
Reynolds, Arthur .....	339
Swinney, E. F .....	352
Hamilton, John L.....	357
McCord, J. A .....	359
Cox, W. V .....	373



# NATIONAL MONETARY COMMISSION.

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In response to the following circular letter inviting suggestions as to changes in the national banking laws, the following replies have been received:

## SUGGESTED CHANGES IN NATIONAL BANKING LAWS.

BOSTON, MASS., *September 26, 1908.*

Section 18 of the act of Congress approved May 30, 1908, known as the Aldrich-Vreeland bill, provides "that it shall be the duty of this commission to inquire into, and report to Congress at the earliest date practicable, what changes are necessary or desirable in the monetary system of the United States, or in the laws relating to banking and currency." Under this authority the National Monetary Commission is making a careful study of the laws authorizing the establishment of national banks and their administration. Believing that the officers of national banks have had the most intimate knowledge of the workings of these laws, and have considered the reasons for or against any changes which may be suggested, it seems wise to the commission that their opinion be obtained before making any recommendation to Congress. For that reason we request that, at as early a date as possible, a reply be made either by the president or some officer of your bank, to the following questions.

1. Section 5240 of the Revised Statutes authorizes the Comptroller of the Currency, with the approval of the Secretary of the Treasury, to appoint suitable persons to make examinations of national-bank associations.

Should, in your judgment, the method of appointing examiners be continued as at present, or be made subject to civil-service rules?

Is it desirable to apply civil-service regulations to the tenure in office of bank examiners?

2. The same section of the Revised Statutes, 5240, provides the method for paying examiners, basing it on the fee system.

In your judgment, is it desirable to change this to a salary or per diem basis, to which there should be added the necessary expenses incurred in making examinations, it being understood that banks shall be assessed to pay salaries and expenses in a similar manner as now provided for by the existing law?

3. In making assessments to provide a fund to pay examiners and other expenses, do you think the law should be changed so as to base the amount of this assessment on capital and gross assets rather than on capital alone, as the law now provides?

4. Do you think it would be desirable to provide a force of assistant examiners to work in cooperation with examiners in larger places,

and, in future, when vacancies occur, to recruit the force of examiners from these assistants?

5. As examiners are frequently in charge of failed banks, acting as temporary receivers, do you think it would be desirable to require them to give a sufficient bond for the protection of the Government and the bank when such contingencies occur?

6. Section 5200 of the Revised Statutes limits the total liabilities to any association of any person, company, corporation or firm, but excepts bills of exchange in the following terms: "But the discount of bills of exchange, drawn in good faith against actually existing values, and the discount of commercial or business paper, actually owned by the person negotiating the same, shall not be considered as money borrowed." Evidently the intention in making this exception was to enable the owner of such paper to realize on it at once, preventing the necessity of tying his capital up in forms of indebtedness not of his own making. Frequently banks have allowed a liability of this class to greatly exceed in amount what they could legally take as a direct loan. Many failures have resulted from these excessive loans made to a single, or allied, interest.

In what manner do you think the law can be amended to remedy this condition and sufficiently limit the amount of paper of this character which a bank can properly discount?

Should the Comptroller, in such cases, be given authority to take action when, in his judgment, loans are being made in excess of the limit indicated by prudence and safety?

Should directors and officers of banks be placed in a different category from general creditors in such cases?

Should a penalty be provided for violation of such changes as may be recommended, enforceable against the officers or directors responsible for such violation?

7. Section 5205 of the Revised Statutes provides for the impairment of capital. Under the present law this impairment must be made good by a stock assessment within three months from the receipt, by the directors, of notice from the Comptroller. If this is not done, the association is placed in liquidation.

Should not the Comptroller have authority in such cases to protect depositors who may, during the three months specified, deposit their money in a bank in which he, the Comptroller, knows the capital is impaired? If so, in what manner do you suggest that such deposits should be protected? There have been many instances of bank failures, and some serious losses to depositors in such cases.

8. In what manner would you suggest the limitation of borrowing from a bank by its officers, directors or employees, both in making direct and indirect loans, and would you make any difference in such cases between officers and directors? Do you think any officer should be permitted to borrow from his own bank?

9. The Supreme Court of the United States has held that it is unlawful for a national bank to purchase or invest in the shares of stock of other corporations, but the laws of several States authorize the ownership of stock of national banks by other corporations. There have been several instances in which the directors of the holding corporation and of the national bank have been the same individuals, and when trouble arose the holding corporation became involved as

well as the bank, and in such cases the possibility of double liability was entirely annulled.

In your opinion, would it be wise to provide against the holding of shares of national banks by any other corporation, except in cases when taken in satisfaction of debts?

10. In your judgment, is the operation of another banking institution in the same building with a national association so undesirable that legislation should be recommended preventing it? There have been cases where securities owned by one corporation have been used during examinations of the other, preventing examiners from obtaining a correct knowledge of the condition of either of such allied corporations.

11. Under section 5211 of the Revised Statutes, which provides for bank reports, banks are not required to make them in duplicate, and in several instances the examiner has been furnished by the officers of the bank with a report entirely dissimilar from the one on file at the department in Washington, and, in using the imperfect report, he has found that the bank's books corresponded to it. This permits of deliberate falsification of accounts.

Would it, in your judgment, be wise to require that reports be made in duplicate, both reports being sent to the Comptroller of the Currency, and one copy furnished to the examiner by the Comptroller when about to undertake the examination of the bank?

12. Section 5211 of the Revised Statutes provides for the publication of reports, showing the condition of national banks, including the direct and indirect liabilities of officers and directors.

In your judgment would it be wise, in publishing such reports, to show the individual liability of the officers and directors; not individually, but collectively?

13. Section 327 of the Revised Statutes provides for a deputy comptroller of the currency, to be appointed by the Secretary of the Treasury, and the legislative, executive, and judicial appropriation bill, approved May 22, 1908, provides for an additional deputy comptroller, to be appointed by the President.

Would you recommend that both these deputies be appointed by the Secretary of the Treasury as a result of civil service examinations, and be subject to civil service regulations?

14. Section 5209 of the Revised Statutes makes it a misdemeanor for an officer or an employee of a bank to make false entries with intention to deceive, but the courts have decided that this does not apply to reports made to the Comptroller of the Currency, as he is not mentioned in the law.

Should not the law be extended to apply to false reports made to the Comptroller?

15. In your judgment, should the law be so changed as to make it possible to enforce the liability of shareholders who have foreseen the insolvency of a bank in which they own stock, and have transferred that stock, to escape liability, before an assignment is made?

16. The law as it now stands requires every national bank to keep on deposit with the Treasurer, in lawful money of the United States, a sum equal to 5 per cent of its outstanding circulation, to be used for the redemption of circulating notes. There have been many instances where banks have failed to promptly reimburse the Treasury

for the redemption of their circulation, and, as the law now stands, the only recourse the Comptroller has is to sell the bonds held against circulation, or to appoint a receiver, either of which courses might be detrimental to the interests of the Government, the note holders, and creditors of the defaulting bank. At the present time the aggregate deficiency due the Treasury for this reason amounts to several millions of dollars.

Should not the Treasurer be authorized to, in some way, enforce this law without taking the extreme measures which are now provided, and, if your answer is in the affirmative, in what way would you provide for its enforcement?

17. The present law limits the amount of the notes of the denomination of five dollars which a bank may have outstanding to one-third of its total circulation. Frequent complaints are made in some localities that this amount is insufficient to meet the requirements for small bills.

Do you think it desirable that this limit be increased?

18. Would it be well, in your opinion, to change the existing laws so that liquidating banks could, in some way, arrange to pay depositors more rapidly? A careful examination of the assets of failed banks will frequently show about how much dividend they can eventually pay, and considerable distress would be prevented if something approximating this amount could be paid to depositors without any delay.

19. Have you any suggestions to make relative to changes in the organization of the Comptroller's office?

There are many other minor changes which it is apparent should be made in the administrative features of national-bank laws, some of which may occur to you, and the commission will be gratified if you, in your answer to the above questions, will make any recommendations which seem to you wise, giving your reasons for urging such changes. In replying please direct to Room 213, No. 60 Congress street, Boston, Mass.

JOHN W. WEEKS,  
*Vice-Chairman of Committee to Consider  
Changes in National Banking Laws.*

## REPLIES RECEIVED FROM NATIONAL BANK EXAMINERS.

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OCTOBER 24, 1908.

Joseph W. Norvell,  
National-Bank Examiner,  
Colorado Springs, Colo.:

In reply to your circular letter I shall try and give you my views and a few reasons in answer to your questions as briefly as possible.

1. I consider the present method of appointing efficient. On general principles I am not favorably impressed with civil-service conditions that prevail.

2. I am in favor of leaving as at present, but the fees should unquestionably be increased in the States.

I am in favor of fee system, as any other system, in my opinion, would cost the banks more and give no better service and in many instances furnish salary for little and unearned services. It savors too much of a "union-labor scheme" where the slow and unprepared would be paid for labor that they do not do.

3. I think the assessment should be based on the total footing rather than the capital, or capital and surplus.

4. I think assistants should be provided for examiners wherever located, but I am certain that it would be an unsatisfactory and unjust way to recruit the country district from cities where the examiner would not have any idea of the value of commodities or of securities in the section to which he might be assigned.

5. Having had several receiverships in my experience, I have always had to give bond and supposed that it was the law.

6. Different sections require different regulations, and what would apply in one district might not, and in many instances would not, apply in another. However, I consider the limit as it now exists a very liberal one, and in my opinion any bank going far beyond this limit would be beyond conservative bank principles. I think the Comptroller should have discretionary powers.

I should favor a law making it much more difficult for officers, directors, or anyone allied with a bank to borrow money, and especially institutions in which officers, etc., are interested. A penalty should be established, and, in my opinion, the heavier the better.

7. In my opinion it would be very difficult to establish a knowledge of the insolvency in many cases, notably The Globe National Bank, of Boston, Mass.; also in the many suspensions of last year. Conditions might make solvent out of insolvent and insolvent out of solvent.

8. This question is a very hard one to answer; yet I see no reason why a bank officer might not borrow of his bank provided he was not granted a greater line of credit than he could obtain from any

conservative banker. How would it do to have a clearance committee pass upon a line of credit for officers and make it a criminal offense for the officer to borrow money beyond that line?

9. I am unquestionably opposed under any and all conditions. It affords a chance to capitalize without capital.

10. I think it should not be permitted. I also think savings and trust company banks should be prohibited from doing any commercial business.

11. Law should compel officers to keep copies if it does not already so provide. To supply an examiner with a copy would be impractical—would incur a heavy expense with very little benefit.

12. I think it would have a good effect to publish collectively.

13. I think the President or Comptroller or Secretary, or all three, should make the appointment. His tenure should be for a period of courtesy and competency, but if his chief did not desire his services he should have power to dispose of him without asking any civil-service board, who know nothing of his qualities or qualifications for the place.

14. Any intended false statement should be a felony.

15. Yes; and no person should be permitted to subscribe for or purchase stock unless they could qualify under oath that they are financially qualified to protect an assessment. Such qualification should be in the files of the office of the Comptroller.

16. I do not feel competent to answer. Yet in my opinion any solvent individual or corporation should be made to pay their liabilities.

17. I see no serious objection to an increase where it can be shown that it is needed.

18. It has been the policy in some instances to alternate examiners in certain districts. I do not consider it for the best interest of banks that this policy maintain.

In my opinion no examiner, however efficient, can possibly make an exhaustive or good examination where he only examines the assets of a bank once a year. Any conscientious examiner can do much better work where he handles the assets several times per annum, and in the place of semiannual examinations, if we are going to increase the assessment, let's examine at least quarterly.

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NOVEMBER 2, 1908.

F. L. Klein,  
National-Bank Examiner,  
Denver, Colo.:

Receipt is hereby acknowledged of your circular dated September 26, 1908, bearing questions regarding changes in the existing laws governing national banks, to which I beg to make the following replies:

1. As a national-bank examiner, I prefer to be silent on the question of desirability of applying "civil-service regulations" to the tenure in office of bank examiners.

2. I am in favor of changing the method of paying examiners, either to a salary or per diem basis. There are certain examiners who have other occupations. If, in my opinion, on a salary basis,

examiners would be expected to give their entire time to the work of the department, which would necessarily effect better results.

3. Yes; in justice to the smaller banks, I favor that all banks should be assessed on capital and gross assets rather than on capital alone.

4. To provide a force of assistant examiners, in my opinion and from experience, is not only desirable but seemingly a necessity, not only in the larger banks but in all instances. Examiners and assistant examiners should be put on a salary basis, with authority to the Comptroller to fix such salaries. With a few exceptions, all of my examinations are made with the assistance of a competent and practical clerk. His salary and expenses I pay out of my fees. While this is quite an item to me, I know that later I will in some way be repaid. I am sure that my assistant who has been with me for the past year, prior to which time he was engaged in a large banking institution, with a little seasoning would make an excellent examiner to-day.

5. I know of no good reason why examiners in charge of failed banks should not be required to give bond for the protection of the Government and the bank.

6. Frequently direct loans coupled with the discount of bills of exchange, or the discount of commercial or business paper made to allied interests when grouped, influence a showing unbecoming to prudent and safe banking, notwithstanding that the character of the business would justify such advances. There are those also which, on the other hand, under similar conditions, are really excessive and unsafe when you consider the character of the borrowers' assets. Seems to me that a limit on the discount of bills of exchange or the discount of business paper or commercial paper made to allied interests or otherwise should be encouraged, same to apply also to direct loans of a single or allied interests when grouped. In order that confusion may be avoided in such matters, I recommend that the Comptroller should have full authority to take action when in his judgment such loans are in excess of the limit indicated by prudence and safety. Directors other than active officers, in my opinion, should be considered general creditors in such cases.

7. Except where a surplus has been paid in. In the case of a new bank there is usually an impairment of capital the first year, as expenses generally run in excess of interest collections. Where the impairment of capital due to bad loans, embezzlement, etc., prove to be result of default of directors, such impairment should be required to be made good by the directors and not the innocent stockholders. I recommend that the Comptroller be authorized to take such action as in his judgment seems best. There should be no limit as to payment of stock assessments, but, instead, immediately upon notice of impairment, the Comptroller to put an examiner in charge, not for liquidation but for the purpose of notifying stockholders of such assessment, with request of prompt remittance. The examiner in charge will in a comparatively short time ascertain whether or not such assessment is collectible, and, if so, will receive prompt returns, in view of the fact that the department is acting as agent. I dare say that in less than two weeks the examiner in charge would have collected the assessment or have such information at hand which would enable the Comptroller to take action.

8. Directors other than officers of the bank to be considered general creditors. Officers or clerks should not be permitted to borrow from their own bank.

9. I have heard of capitalists who owned a large assortment of national-bank stocks and who have purposely organized a holding company with a view of escaping a doubled liability in the event of a failure. In view of the above, and on general principles, I think it would be wise to provide against the holding of shares of national banks by any other corporation.

10. The operation of another banking institution in the same building with a national association is very undesirable and unsatisfactory unless that by previous arrangement with the State banking commissioner (if there be any) a simultaneous examination be made of both banks.

11. Yes.

12. Yes.

13. Deputy comptroller in my opinion should be beyond "civil-service examination," appointed by the Secretary of the Treasury, and not subject to "civil-service regulations."

14. Yes.

15. Yes.

16. When one considers the amount of national-bank notes outstanding, the aggregate deficiency due the Treasurer is small. However, this deficiency might be materially reduced if banks which fail to promptly reimburse the Treasurer for redemption of their circulation, due largely to the carelessness of clerks with a title, would be advised of such redemption by second letter addressed to the president of the bank, with instruction to give the matter in question his immediate attention, thus avoiding the necessity of extreme measures, as provided by law.

17. As paying teller in a Chicago bank, it has been my experience that during the crop-moving season the demand for currency shipments in small denominations would generally exceed that which the bank had on hand or could exchange for large bills from other banks. Seems to me that it would be desirable to increase the limit of notes of the denomination of \$5.

18. Yes.

19. None.

OCTOBER 29, 1908.

J. K. McDonald,  
National-Bank Examiner,  
Athens, Ga.

Your circular letter of September 26 has been received, forwarded from my home at Athens, Ga. Presuming that since the circular was sent to me as a national-bank examiner, you wish replies from me to the questions asked, I am answering same below.

1. It might be more satisfactory for examiners to be appointed under civil-service rules, based on their experience in banking, accounts, and general knowledge of business in various lines.

2. I think it almost imperative that examiners be placed on a salary basis. Under the present system, in a large number of instances, the compensation is so small that it is practically impossible

for an examiner to make a satisfactory examination without loss. The result in many cases is that an examiner can not devote the time necessary to an exhaustive examination where such is thought to be necessary, especially in districts where banks are widely scattered and long distances are traveled between banks.

In my opinion the salaries of examiners should be sufficiently attractive to command the services of men of large experience and mature judgment, and they should be allowed actual expenses incurred.

3. I think the assessments should be based on the capital and gross assets of banks. The actual work required depends entirely upon the gross business of the bank, and assessments based on the capital alone would bear unequally on banks with the smaller aggregate of business.

4. The provision for a force of assistant examiners would result, I think, in improving the efficiency of the force if appointments were made from the assistants having had larger experience as such.

5. I see no objection to having examiners in charge of failed banks furnish bonds; however, I have never heard of an examiner having in any way betrayed his trust in this regard.

6. I have known instances where banks had under discount large amounts of commercial paper of one concern, discounted for various customers, which resulted in losses by the failure of the payers. I therefore believe the limit should apply to the paper of one firm or corporation, whether discounted for one customer of the bank or many.

I do not think that the limit should apply to the aggregate amount of commercial paper held by a bank where no one firm or corporation is represented by an excessive amount.

I think the Comptroller has far too little authority under the present laws. In a number of instances I have observed that conditions existed that positively required correction, but under the law the Comptroller had authority only to admonish and advise the directors.

I think it unwise for an officer or employee of a bank to be permitted to borrow any money from his bank. Many banks have met disaster from this source. In most cases, the directors are business men in active trade, and it is necessary for them to borrow. Heretofore too many of them have used their banks to finance enterprises in which they were interested, to the injury of their banks. I therefore believe that the most stringent regulations should be thrown around loans to directors; that no loan should be granted to a director or a concern in which he is interested, without the consent of the board, and that such loans should be secured to the satisfaction of the board.

A law carrying no penalty is necessarily a dead letter. This has been fully demonstrated under the present laws. Without penalties the law can not be enforced.

7. The Comptroller might be given authority to require banks whose capital is impaired to keep a list of all persons making deposits after the receipt by them of notice to make the capital good. By this means, the receiver of a bank closed under these circumstances could ascertain readily the amount due to depositors for deposits made after the insolvency.

8. Answered under question 6.

9. The matter of double liability is a very important one. In my experience as examiner in charge and receiver of failed banks, I have

observed that assessments rarely ever result in very material augmentation of the assets to be distributed. In most cases I have found that the capital stock held by most of the shareholders is hypothecated in some other bank, and that the shareholders are judgment proof. If it were not considered too drastic a remedy, I would recommend that the certificates of stock of all national banks be deposited with the Comptroller. It would serve a good purpose if the law required all certificates of officers and directors to be so deposited.

I think it would be wise to provide against the holding of national-bank stock by all corporations, except such as should be acquired in satisfaction of debt, and then that such stock be sold within a given time.

10. I think that the operation of another banking institution in the same building with a national bank should be prohibited, especially where the two institutions are owned or operated by the same persons.

I think it is very important that the law be so amended as to prohibit a national bank, or its officers or directors, operating a savings bank in connection with the national bank, unless the examiner is given authority to make an examination of all such savings banks, and in that case the savings bank should not be permitted to occupy the same building with the national bank.

11. I think it would be wise to require reports to be made in duplicate, and I recommended to the Comptroller more than a year ago that they be so required, but it was found that he had no authority to do so. There is no other way in which examiners can verify the duplicate reports kept by the bank.

12. I think it would be wise to require published reports to show the individual liability of officers and directors, and their liability indirectly, separately stated, in the aggregate. I think, also, that reports of condition should show the liability of all firms or corporations in which the officers and directors are interested. Many banks have been wrecked by the directors financing their corporations in unsafe amounts. Examiners are required to report all such loans, but in some instances I have found that officers do not inform the examiner of such loans unless he makes special inquiry concerning all large loans.

13. I pass as a matter in which examiners would probably better not offer an opinion.

14. I would strongly recommend that the law be amended so that any false report to the Comptroller would be a criminal offense. I have a case here in which the cashier and president are indicted for making false reports, but unless we can prove that the reports were made to deceive the examiner or other "agent appointed to examine," we will fail of conviction.

15. If it is deemed possible to prove that a shareholder has transferred his stock to avoid an assessment, knowing or believing that his bank is insolvent, such a law would serve a good purpose.

16. It would probably correct this evil if the Treasurer were authorized to impose a fine sufficiently large to compel prompt remittances.

17. I think the amount of small notes (\$5 denomination) should be increased.

18. I do not believe in the scheme of guaranteeing bank deposits now exploited, and I can conceive of no other remedy for the hardship now borne by creditors of failed banks than that the Government

provide a fund out of which they might be paid an approximate proportion of the value of the assets pending the winding up of the trust by a receiver; however, the first estimate of the value of assets is likely in many cases to be far from the value ascertained by actual realization, as many items thought at first to be good turn out to be doubtful or worthless. If such a plan should be thought wise, it would be well to limit the proportion to be paid to 50 or at most 75 per cent of the estimated value.

19. I pass this question as one that examiners are not competent to judge of.

I think that the boards of directors of banks should be limited to, say, nine or eleven. I have banks in my district having boards all the way up to thirty and more. Such boards are unwieldy and cumbersome, and in my opinion large boards serve no good purpose.

I think that a majority of all boards should be residents of the place in which the bank is located, exclusive of officers or employees of the bank.

In my opinion, the directors should be required by law to meet at least monthly, and that any director absenting himself from three successive meetings without the excuse of sickness or absence from the place should be legally incapacitated and his place filled.

I would recommend that the board be required four times yearly to list and examine all assets, piece by piece, together with all securities, and to report to the Comptroller under oath that they have done so, giving the aggregate amount of assets which they class as "good," "doubtful," and "worthless," with their estimate of the value of doubtful assets, and a statement as to whether they consider the securities adequate for loans on which they are held, with a list of such loans as they consider not well secured.

During my experience as a national-bank examiner of more than fifteen years I have had charge of ten or twelve failed banks as examiner in charge or receiver, and it is my deliberate opinion that if the law shall be so amended as to secure the actual management of banks by the directors failures will be almost impossible.

In all cases of which I have knowledge, where banks have been insolvent, the directors had left the management practically entirely to the officers and did not take any active or intelligent part in the management.

In several of the banks of which I have had charge the president or cashier, or both of them, have been owners of large proportions of the capital stock. Wherever I found this condition in a failed bank I found that the directors had not made any effort at discharging their duties, but since the officer or officers were supposed to be managing their own money the directors were content to leave the management entirely to them. In several cases this resulted in the officers using large amounts of the funds of the bank in speculative enterprises of their own. A bank officer who owns a majority of the stock of his bank is likely to think, perhaps unconsciously, that the bank is practically his, and the sequence is that he comes to think, again perhaps unconsciously, that the deposits of the bank are his to use without consulting anybody else. I can not see any way in which to remedy this except that possibly it might be well to limit the holdings of any active executive officer of a bank to a certain percentage of the entire capital, but this does not strike me as feasible.

To sum up, if the laws shall be so amended as to compel the directors to faithfully discharge their duty, the whole question will be covered as can not be done in any other manner.

A question which has very probably had consideration by your commission is that of reserve funds, nevertheless I take the liberty of calling attention to some observations of my own during two severe panics since I became an examiner.

The law permits three-fifths of the legal reserve to be carried in the hands of reserve agents. During both the panics referred to I have known banks which had large deposits in reserve and central reserve cities obliged to violate the law by limiting the amount paid to any depositor in one day, because they found it impossible to get their own money from their correspondents without paying exorbitant premiums for currency. In November last banks in Jacksonville paid \$35 per thousand premium for their own money. At the same time money was being loaned in the cities at as high as 100 per cent.

If the banks were required to keep their reserve in their vaults such conditions would not be possible. This would have the effect of reducing the amount of money borrowed by country banks, because their deposits in city banks would be reduced. As a rule, country banks borrow entirely too much money. It would also reduce the amount of cash available for speculative purposes in the cities, and thereby tend to place the business of the country on a sounder and more conservative basis.

I would recommend that some penalty other than forfeiture of charter be fixed for every violation of law, and that the directors permitting the violation be amenable individually.

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OCTOBER, 26, 1908.

Miller Weir,  
National-Bank Examiner,  
Jacksonville, Ill.:

I would acknowledge receipt of your circular letter in regard to changes in the national-banking laws, asking my opinion, etc. I will qualify by saying that I have had experience in various departments of the government service, having been first appointed in 1881, and having served seven years as an examiner, in various States. The present national-banking laws as a whole "look good to me," if you will pardon the expression. If I had the authority to enforce the present laws I would have no trouble in guaranteeing the solvency of the various banks on my list.

The change most needed, in my opinion, is for a penalty to be attached to some of the laws, and that the Comptroller should have authority to demand the enforcement of his requirements. Practically the only section that an examiner can do business under is section 5209, and the penalty is entirely too severe in many cases. It does not appear that we have at this time any other recourse in order to clean up a bank except to shut it up. An examiner has no authority to do anything until after the crime is committed. He really has no authority at this time to insist upon the retirement of an officer from the bank even if he felt fully assured that that officer was entirely incompetent and not suited for the position.

Under the law a national bank can not make loans upon real-estate mortgages (as a class these are known to be the best class of loans), and yet there is no penalty to enforce this law. The law appears unreasonable and inconsistent. Either a penalty should be attached or else the banks allowed to take real-estate mortgages.

As to the examiners, I do not think it is practicable to apply civil-service rules to them, and I think the present method of appointing them should be continued, but more care should be taken in their selection. Their terms of office should be subject to the pleasure of the Comptroller of the Currency, and they should be men of ability, discretion and judgment. Assistant national-bank examiners in large cities should not be given commissions as examiners, as it detracts from the position of examiner. The commission of a national-bank examiner should be considered a certificate of responsibility and ability, and should not be given out to assistant examiners. Some arrangement should be made for giving these assistants in large cities proper credentials without giving them commissions.

Outside of the large cities the present method of compensation, with some changes and additions, will be satisfactory. As for myself, I would rather continue under the fee system than to either receive salary or per diem, though it might be a greater compensation. As soon as an examiner is put upon a salary or per diem and has to make an expense account he, in a measure, loses independence.

The principal trouble with the present system, outside of the reserve cities, is that the work has outgrown the compensation. The requirements of the Comptroller's office have become greater every year; the banks have piled up large surplus and undivided profits and the compensation has not been increased. The fee should all be based upon the capital, surplus, and undivided profits, outside of reserve cities. All examiners should be allowed an assistant and a stenographer and office expenses in addition to his regular fee. There should be some provision for paying an examiner for additional time when he finds a bank in bad condition and makes a special examination of the bank. As it is now, it is to the financial interest of an examiner to avoid trouble. I think a fee of \$20 for all banks with a capital, surplus, and undivided profits of less than \$50,000 is sufficient. A fee of \$25 for all banks with a capital and surplus less than \$100,000 is sufficient for ordinary examination. Every examiner in the country district should have a paid assistant whom he could send to the smaller banks, and not be required personally to make all these minor examinations. The equivalent of two hundred examinations a year for the average country examiner is entirely too much for any one man to do.

I failed to see very much that is wrong with the present national banking laws, except as noted above. I do not favor any general change. If I am allowed sufficient compensation and help I can continue to make a success of the present national-banking laws, but it would help me a great deal in my business if I had more authority to act before a crime is committed and before the bank becomes insolvent. I will say in this connection that during my term of office no bank upon my list has lost a dollar to the depositors and my greatest cause of complaint is that I can not afford to do the work in the way that I would like to do it for the compensation allowed.

The opinions you ask cover such a wide field that I could not attempt to go into it all unless it was for some special purpose, so please pardon the irregular and condensed form of my opinion.

OCTOBER 12, 1908.

William D. Frazer,  
National-Bank Examiner,  
Warsaw, Ind.:

I have your circular letter of the 26th ultimo, asking for a reply to the questions therein contained. In answer thereto, I have to say:

1. The method of appointing national-bank examiners should be continued as the law now provides.

I do not think it is desirable to apply the civil-service regulations to the tenure in office of bank examiners. However, there may be as good reasons for applying the civil-service regulations to examiners as there are to many other branches of the public service to which they now apply. In my judgment, the Comptroller should be left free to select and discharge his examiners at will.

2. I do not believe any better results could be obtained by placing examiners on salary and expense instead of fees. I do not think the change would make the examinations more thorough nor accomplish any better results. An examiner who will neglect his duties under the fee system will do the same thing if he is on a salary, in my judgment.

3. In making assessments to provide funds with which to pay examiners and other expenses the law should be changed so as to base the amount of assessment on the capital and gross assets rather than on capital alone.

The amount of capital of a bank does not indicate the amount of work necessary for the examination. Some banks with \$100,000 capital have gross assets of \$400,000 or \$500,000, while others with the same capital have gross assets four or five times as great, and a proportionate amount more time and labor is necessarily required to examine the larger bank, while under the present law the fee is the same.

4. I think it desirable to provide a force of assistant examiners to work in cooperation with the examiners, not only in larger places, but in every bank. Where vacancies occur, however, I think it should be discretionary with the Comptroller whether he will recruit the force of examiners from these assistants. In every bank examination there should be an assistant examiner, so that the examination may be made without any assistance from bank employees. This would insure accuracy and save time, and is the only way in which an examination can be made thorough in a reasonable time without the assistance of a bank employee.

5. No. When bank examiners are placed in charge as temporary receivers, they usually go to the failed bank upon telegraphic instructions from the Comptroller and take immediate charge. There is no time for the execution of a bond, and if matters are to be delayed until the examiner can execute a bond before he is authorized to take possession of the assets, stop the payment of drafts, etc., great loss might be incurred, whereas under the present system the examiner

takes immediate charge and goes to work without delay. The examiner is only in temporary charge, and in a few weeks he is succeeded by a permanent receiver, who, of course, has plenty of time to execute his bond before entering upon his duties. He then checks up the work of the examiner, and, so far as I know, there has never been a case where the examiner has not been able to turn over everything which has come into his possession.

6. In my opinion the words, "but the discount of bills of exchange, drawn in good faith against actually existing values, and discount of commercial or business paper, actually owned by the person negotiating the same, shall not be considered as money borrowed," should be stricken from section 5200 of the Revised Statutes. This section is greatly abused, and it is impossible for an examiner to tell whether the paper has actually been executed in good faith against existing values or whether it is actually owned by the person negotiating the same.

We are compelled, in most cases, to take the statement of the banker that he was so informed by the person negotiating the paper. The banker may be imposed upon and the examiner may be imposed upon, and the maker of the paper is thus able to borrow many times the amount permitted, as a direct loan, in this roundabout manner.

If 10 per cent of the capital and surplus of a bank is enough to loan any customer directly, I have never been able to see any good reason why it should be loaned to him indirectly, as this section permits.

I do not think directors and officers of banks should be placed in any different category from general creditors. They should, in my judgment, have the same privileges as the outside public. In my opinion a penalty should be provided, enforceable against the officers and directors responsible for the violation of any provision of the national-bank act.

7. I do not see any reason why a depositor who makes a deposit after a bank's capital becomes impaired should have a preference over another depositor who has made his deposit before the impairment is known to the Comptroller. Such preference would have to be at the expense of the depositor who made the first deposit, yet he could be as ignorant of the condition of the bank as the last depositor.

8. I do not think the officers, directors, and employees should be placed in any different category from the other borrowers, excepting that I would require loans to them to be made at a directors' meeting, and only with the consent of the majority of directors, the action to be recorded in the minutes of the directors' meeting.

9. I am not prepared to answer this question.

10. I see no objection to another banking institution operating in the same building with the national association, provided simultaneous examinations are made of both institutions, as is now done in Indiana.

11. I think it would be wise to require reports to the Comptroller to be made in duplicate and compared at the Comptroller's office and one copy sent to the examiner. Banks are now required to make duplicate reports, one of which they retain for the inspection of the examiner. It would be as easy for them to mail both copies to the Comptroller.

12. I do not think it would be just to the officers and directors of a bank to compel them to publish the amount of their liability to the

bank, even collectively. There are comparatively few cases in which this would do any good, and it might be a detriment in every case.

13. I think all deputy comptrollers of the currency should be appointed by the Comptroller and the Secretary of the Treasury, and not be subject to civil-service regulations.

14. Yes.

15. Yes.

16. Yes; but I have no method to suggest.

17. Yes.

18. Yes.

19. No.

In my judgment, national banks should be allowed to loan at least one-half of their capital and surplus on real-estate mortgages, the amount of the loan not to exceed one-half of the value of the land, exclusive of buildings. The prohibition now existing is forcing many national banks to organize trust companies, many of which are located in the same room with the bank. This is done to compete with state and private banks and trust companies, as a matter of self-protection. By the organization of a trust company by the stockholders of a national bank, the energies of the officers are divided between the two institutions, and these energies could be more efficient applied to one institution. In Indiana every banking institution, including trust companies, excepting national banks, are permitted to make loans on the real estate, and the result is the national banks are at a disadvantage and can only successfully compete by organizing trust companies of their own. I think nine-tenths of the national banks in Indiana are very anxious for some relief on this subject. They are now at a great disadvantage, especially in smaller places and agricultural communities. The privilege of making a limited amount of real-estate loans would do away with the necessity of having trust companies in the room with the bank.

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NOVEMBER 18, 1908.

Wilfrid P. Jones,  
National-Bank Examiner,  
Algona, Iowa:

Either your communication of September 26, 1908, was not mailed until long after the date named, or it was very much delayed in reaching me. I submit my reply herewith:

1. I am familiar with the civil-service rules only in a general way. Examiners should unquestionably be appointed for their fitness rather than for political reasons. Placing examiners under the civil-service rules, however, would, it seems to me, build up a corps of examiners who, while able to meet the requirements of the civil-service rules sufficiently to retain their positions, would not be the highest type of examiners. For this reason I have always been opposed to the idea of placing national-bank examiners under civil-service rules.

2. The present system of compensation for examiners is unquestionably wrong. It is my judgment that a salary or per diem basis of compensation, to which there would be added the necessary expenses incurred in making examinations, should be adopted. The

only objection I can see to this system of compensation would be the liability of examiners shirking and padding expense accounts, but this is not sufficient reason to warrant discarding the proposed system. These things could readily be detected and the examiner dismissed. The fee system will always offer a premium for slighting work.

3. Yes.

4. Yes.

5. Yes.

6. The present limit should apply to commercial or business paper given for money borrowed. The Comptroller should be placed in position to enforce the limit of prudence when he finds that a bank, in discounting "bills of exchange drawn against actually existing values," etc., is exceeding the limit of prudence. It would probably be better if officers and directors did not borrow from the bank with which they are connected, but I doubt the wisdom of enforcing such a restriction. My answer to question 8 covers the latter part of question 6.

7. It seems but just that such depositors should be protected, and I can think of no better way than to make them preferred creditors. There is a question which arises in this connection, and that is the matter of justice to the depositors who allow their funds to remain in the bank to the last while other depositors during the three months withdraw their deposits, to the obvious detriment of those remaining.

8. I doubt the practicability of prohibiting either officers or directors from borrowing money from the banks with which they are connected, but I do think it advisable that all loans and discounts to officers and directors should be authorized by a majority of the directors at a regular board meeting and that it be made a crime punishable by suitable penalty both to borrow funds without such authority and to borrow in excess of the limit. In the case of officers and directors there should be a limit placed upon the indirect liability other than that of the limit of prudence, as is the case with other borrowers.

9. Yes, I believe so; however, this raises the question of the advisability of permitting the branch banking system in this country.

10. No, it would not be practicable. Simultaneous examinations will remedy the trouble.

11. Yes.

12. Yes.

13. No.

14. Yes.

15. Yes.

16. Yes. Provide for a penalty for not remitting within ten days.

17. Yes.

18. Yes.

19. Section 5145 provides that "the affairs of each association shall be managed by not less than five directors, etc." It was the obvious intent of the framers of this section to prevent the "one-man bank," thereby aiming at a wise provision, but they failed. This is, in my judgment, one of the greatest defects in the present law. The present Comptroller has recently instructed examiners to call in the directors, so that he may get their judgment on the value of the assets, etc.—a

wise provision. Now, let me cite a case—the First National Bank, of Forest City, Iowa (No. 4889). In this bank B. A. Plummer is president; his wife, M. Jane Plummer, is vice-president; his son, R. C. Plummer, is cashier; his son-in-law, F. L. Wacholz, is assistant cashier; these four, with his daughter, Effie Plummer Wacholz, constitute the board of directors. Now, you will readily appreciate the fact that B. A. Plummer is the whole board of directors and the whole bank. What good will it do the examiner to call in the directors in such a case? In many other cases the active manager of the bank is the only local director, the other directors being nonresidents. This is entirely wrong and not at all as it should be. At least three-fifths of the directors should be residents of the community in which the bank is located, and should be persons who are qualified to pass upon the assets of the bank and capable of familiarizing themselves with the business of the institution. It is my judgment that the Comptroller should be authorized to pass upon the qualifications of directors and reject any who are not qualified to discharge the duties of the office.

See that every bank has a good, competent board of directors and place the examiners on a per diem and expenses basis, and there will be no need for bank failures.

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Percy H. Johnson,  
National-Bank Examiner,  
Lebanon, Ky.:

1. Civil-service rules. Yes.
2. Should be on salary and expense basis.
3. Yes.
4. Yes.
5. Yes.
6. Allow 10 per cent for commercial paper. Yes. No. Yes.
7. Directors should give bond, or assessment be made at once.
8. Would allow same privilege as others.
9. Yes.
10. Very objectionable; should be remedied.
11. Yes.
12. Yes.
13. Yes.
14. Yes.
15. Yes.
16. A graduated fine of so much a day.
17. Yes.
18. Yes.
19. I would suggest that there be attached to the Comptroller's office four or five examiners, selected solely upon efficiency and merit; that these examiners travel, say, ten months of the year, in every examiner's district, and accompany each examiner in at least five examinations to observe his methods and to determine whether or not the work is being done in a capable manner and if sufficient time is devoted to each examination. In my judgment this would do more than anything I can suggest to improve the service. I mean the five examiners could divide the territory, and then shift yearly.

W. L. Yerkes,  
National-Bank Examiner,  
Paris, Ky.:

1. Be continued as at present.
2. Should be changed to salary and expense basis.
3. On capital and gross assets.
4. Yes.
5. Yes.
6. Yes. Yes. Yes.
8. In regard to directors the ordinary 10 per cent limit is sufficient.

Officers, perhaps, should not borrow from their banks.

9. Yes.
10. Yes.
11. Yes.
12. Yes.
13. No.
14. Yes.
15. Yes.
16. Yes.
17. Yes.

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OCTOBER 17, 1908.

C. W. Curtis,  
National Bank Examiner,  
Dexter, Me.:

Your circular letter of September 26 has been before me during the week past, while I have been too much occupied to give the same any such consideration as the gravity of the various subjects demands. While most of the matter seems directed to bank officers rather than examiners, I will venture a few suggestions on a very few subjects.

3. Would base part of assessment on capital; balance on gross assets.

4. Yes.

6, 8. Debatable ground. Would give large discretion to directors who direct. Would require collateral for loans exceeding what would be generally reasonable. Would require unanimous vote of directors for such loans. Would have weekly meetings of directors, under penalty for frequent absence. Would require full and complete records of such meetings, which should show the liabilities of parties, who apply for further credit to the bank. Records should show names of directors present, whether any business is done or not. Records should show approval of loans and discounts, by numbers. Considerable imperfection in records in my district.

Should recommend a degree of authority to the Comptroller in regulating excessive loans.

10. I am not of the opinion that the separation of the banks should be absolutely required. It would work a hardship to several banks in my district which need the economy that a joint occupancy of same rooms gives. I do not think that a separation of a single wall or even a block would prevent the opportunity for collusion where the disposition exists to practice crookedness. Should recommend joint examinations of the two banks, with provision for separation when arrangements are not made for the joint examination by state and

national examiners, or provision for the national-bank examiner to examine the state bank at same time.

11. Would have both reports fully executed. I have before recommended this. Such reports to be used as suggested.

12. Should be afraid of injury to the bank as well as to the individuals, especially where there are competing banks.

14. Yes.

15. Yes.

16. Provide a penalty for unreasonable delay, subject to rebate on satisfactory explanation.

NOVEMBER 25, 1908.

Alfred Ewer,  
National-Bank Examiner,  
Boston, Mass.:

In response to your circular letter of September 26, 1908, I would submit the following replies to the questions therein contained:

1. As at present but the best men should be selected.

Civil-service rules or regulations should not apply to the appointment or tenure of office of examiners, neither should politics adversely affect them.

2. From an examiner's standpoint the compensation should be adequate for the service rendered, which is not the case at present; it would seem immaterial to such parties as to whether it was on a salary or a per diem and expense basis.

3. Think assessment should be based on both capital and gross assets, but of a different proportion for each. Even on this basis the assessments would not be equitable for all banks and probably no one method could be devised that would be.

4. Examiners in the larger districts already have assistants who have been approved by the Comptroller. If the examiner is capable his assistant is in an excellent school and is being fitted in the best way (by experience) to become an examiner. Many things should, however, be taken into consideration in connection with an appointment.

5. If receivers are bonded, see no reason why an examiner, if made a temporary or permanent receiver, should not also be bonded.

6. (a) Present law as regards liability for money borrowed with a proper limit for indirect liability. (b) Yes, after a hearing before some competent tribunal. (c) No, unless by a combination this endangers safety. (d) Yes.

7. Do not see how it would be practicable to protect them except to the extent of making them preferred creditors for the increased amount of their funds on deposit, should failure ensue.

8. Think all such loans or discounts should be approved by the written signature of the directors making them. Would make no distinction in law between officers and directors, but inasmuch as the former are the executives, accommodations extended to them should be safeguarded to the fullest extent possible.

9. There is opportunity for arguments pro and con as regards this question. The tendency of the times is toward the incorporation of various classes of business which have heretofore been controlled

by individuals or firms. It might become necessary for a bank to own or control the entire capital of a corporation in order to save making a loss.

Think corporations organized principally as holding corporations should be restricted or limited as to the holding of stock of national banks of which the directors, officers, or large stockholders of such national banks are also directors, officers, or large stockholders of such holding corporations.

10. Not as regards the same building. Would prohibit joint use of the same office, rooms, or vault, or cash. No plan, however, can be devised that will prevent the shifting of assets either from near or remote points prior to an examination. Certain restrictions, perhaps, could be devised to make the accomplishment thereof more difficult.

11. The comparison of retained copies of reports, which may not be true copies, is, in my opinion, a waste of time, except, perhaps, as a sort of weapon, to frighten unskilled wrongdoers.

A comparison to be of service should be a comparison of the books of the bank, with an absolute copy of the report made to the Comptroller, and some method should be adopted in regard thereto in order that examiners may have true copies only.

12. Much can be said on both sides of this subject. I can conceive that it might be unjust in some cases and very beneficial (preventing undue use of funds) in others. The undue use of funds should be prevented by all reasonable means possible, both as regards accommodation extended to one person or firm and as regards a grouping of interests of a few, as also the aggregate that may be extended to officers and directors.

13. Think all deputy comptrollers should be appointed by the same power.

14. Yes.

15. Yes.

16. Would provide for a fine for delinquents, to be enforced by the Treasurer after a second request for reimbursement which should state that the fine would be imposed if reimbursement be not immediately made; failure in this respect to be sufficient reason for the sale of such bonds as the case may warrant.

17. Yes.

18. Do not consider it feasible to pay to an extent beyond which the funds on hand are adequate. Smaller percentages might possibly be paid in order to relieve creditors.

19. *Suggestions.*—Think that the Comptroller should be given the power to remove officers or directors for cause, after a hearing before some competent tribunal, should such tribunal so direct.

Would call to your attention "participation loans" made by banks in the larger cities generally. The practice opens the door to a large extent for the concealment of wrongdoing. Unless safeguarded by the bank both as to record, custody or otherwise, it would be next to impossible to detect their misuse.

Loans made for account of correspondents also come under the same conditions pertaining to participation loans.

Would suggest the consideration of making national-bank notes lawful money reserve for national banks.

OCTOBER 17, 1908.

James A. Cline,  
National-Bank Examiner,  
Lincoln, Nebr.:

Below will be found seriatim replies to the inquiries contained in your circular letter of September 26. As I serve in the capacity of national-bank examiner for the State of Nebraska, it will be understood that these replies, and particularly Nos. 1, 2, 4, and 5, are written from that standpoint.

1. I consider the present manner of appointment of national-bank examiners satisfactory, but, in my judgment, such appointment should be nonpolitical and the qualifications for the office should cover discretion, good character, and practical, successful banking experience (or special training as assistant in examinations, as noted under No. 4).

The tenure of an examiner's office may safely be left to the appointing power, but should not be continued beyond his usefulness.

2. While I have personally no complaint as to the aggregate of fees, I should prefer a salary basis. It is something of a strain on frail human nature to spend four or five days' time at one's own expense in the examination and correction of a bank, for which the fee is only \$20, even though its condition may be much improved by the overhauling. The tendency is to report delinquencies to the Comptroller and either await his order to return to the bank or endeavor to adjust matters by correspondence.

3. \* \* \*

4. I am in favor of the employment of assistants in the examination of the banks in reserve and other large cities. In addition to estopping any attempt to duplicate assets, such assistance would much facilitate examinations and not interfere for so long a period with the regular business of the bank.

It would be natural to graduate such assistants into examiners if their qualifications would warrant.

5. As the occasions on which national-bank examiners serve as temporary receivers generally occur without time for preparation, a compliance with the suggestion would practically require that the examiner continuously carry a bond.

If arrangements could be made for a surety bond at a cost commensurate with the risk and the infrequency of the responsibility, I should not object to procuring it.

6. (a) As far as the class of paper discounted in my territory is concerned I believe the limit could safely be fixed at 20 per cent of the capital and surplus (or twice that of a direct loan) if approved by the board of directors.

(b) The Comptroller should be given authority to enforce a penalty, as indicated in (d) below.

(c) As stated under No. 8, I am in favor of forbidding either loans or discounts to the active officers of a bank, but would not bar directors, not serving as active officers, from the privileges of any other responsible customers.

In every case, however, where a loan is made to a director, or paper discounted for him, such action should be approved by the full board of directors, the approval entered on the minutes, which should be signed by all directors present.

While this method might not prevent a reciprocal understanding among them, its tendency would be to impress directors more forcibly with their responsibilities.

(d) Would suggest as a penalty for excess loans or discounts a per diem fine, running from a certain period after the receipt of notice from the Comptroller, such fine to be a rate per cent on the excess of such loan or discount of sufficient amount as to render neglect of the Comptroller's instructions expensive. To protect inactive shareholders the officers or directors who made or approved the loan might be expected to pay the fine.

7. When the capital stock of a national bank is impaired to the extent of 50 per cent or more and an assessment ordered to make good such impairment, all deposits received in the interim prior to the payment of such assessment should be considered as a special trust. It is suggested that these deposits be covered by a bond approved by the Comptroller, furnished either by responsible shareholders or a reliable surety company.

8. As an active officer seeking accommodation from his own bank must serve in the dual capacity of borrower and lender, I am of the opinion that a law prohibiting the loan of the funds of any bank to any of its active officers would materially strengthen banks as a class and injure no one worthy of credit.

Almost all of the insolvent and crippled banks of which I have had actual knowledge have been brought to that condition through loans made by active officers to themselves or to enterprises in which they were interested.

In my experience, the same objections do not hold against directors' paper nor that of employees, to the extent of their financial responsibility.

The best class of directors a bank can secure are the active business men and substantial landowners of the community, familiar with its credits and conditions. To forbid such men the borrowing privilege would be to deprive the bank either of a liquid class of loans or of the services of those most competent to serve it.

9. It would certainly be desirable to prohibit the holding of shares of a national bank by other corporations, but I have not considered any plan of federal legislation which would cover the case.

10. As it would be practically impossible to bar out by legislation from the immediate neighborhood of the national bank the state or incorporated savings bank, in which its officers or directors might be interested, it has never seemed feasible to me to forbid their joint occupancy of the same room. If fraud is intended it is only slightly more difficult to accomplish it across the street, or from an adjoining building. Indeed, if the connection exists, it appears to me better that the examiner, personally or through his assistant, should have power to take simultaneous possession of the assets of both institutions. This is my practice in the affiliated savings banks in my district.

11. I believe the suggestion made to be practical. Another plan, involving perhaps less work in the Comptroller's office, would be the issue of report blanks prepared on safety paper in which any alterations might readily be detected.

Reports to be sent, as suggested, to the Comptroller's office in duplicate. One to be retained there; the other, with the official stamp

of the Comptroller, to be returned to the bank, with instructions to carefully preserve for the inspection of the examiner.

12. If accommodations to officers are restricted or forbidden as suggested under section 6, I see no necessity of announcing the liability of directors. Some banks, however, prefer to make such a statement.

13. I have no criticism to make upon the present law in this particular.

14. In my opinion, a false report to the Comptroller should be made a misdemeanor.

15. I am strongly in favor of a provision of law enforcing the liability of shareholders who dispose of their stock, with knowledge that the bank is involved or insolvent. A time limit, say six months or more, might be fixed during which the liability of the selling shareholder would run, with respect to loss in assets held by the bank at the time of the sale.

16. It would appear to me that a shortage in the redemption fund might be prevented by requiring advance payment for circulation; the bank to be notified when the bills would be ready and required to remit before their shipment.

17. In the interior banks I notice an insufficiency of small bills. There should be an increase in the limit of the issue of these bills.

18. It would be most desirable, both for the individual depositor and the financial repose of the community, to expedite the payment of the depositors in a failed or liquidating bank. I believe that much could be accomplished through prompt and concerted action on the part of the receiver and a carefully selected depositors' committee acquainted with local values and methods of collection.

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OCTOBER 8, 1908.

Charles A. Hanna,  
National-Bank Examiner,  
New York:

In reply to your circular letter of September 26, relating to suggested changes in national-banking laws, I offer the following answers to your several questions:

1. As an examiner is largely a personal representative of the Comptroller, and their relations are of a confidential nature, the Comptroller should have more latitude in choosing these representatives than would be given him under the civil-service rules as applied at present.

On the other hand, it would be a great protection to the Comptroller to have the civil-service requirements to fall back on when, as is often the case, he is importuned by a Congressman or Senator to appoint as examiner one of the applicant's friends, who may have no qualifications whatever for the position.

If the civil-service rules could be applied so as to leave more liberty to the Comptroller in his choice from the eligible list than they would give now, I think it would result in securing better examiners.

2. All examiners who have to travel from town to town to make their examinations should be allowed for mileage and expenses in addition to their present compensation.

The manner in which this expense fund can be raised is suggested in the answer to the next question.

3. In the reserve cities and central reserve cities the assessment is now based on capital and gross assets instead of on capital alone. If this method of assessment could be extended to the country banks outside of reserve cities, I think it would increase the fund for payment of country examiners sufficiently to cover their expenses and mileage in traveling from one town to another.

4. It is absolutely necessary to have a force of assistant examiners to work in cooperation with examiners in larger places, as it is a physical impossibility for one examiner, without assistants, to examine a bank of the size of most of the banks in the reserve cities.

As a matter of fact, in New York City the two resident examiners have nine assistants, whose salaries, aggregating \$15,000, they pay out of their own pockets.

The experience as assistant in the New York examiner's office has apparently proven valuable in fitting assistants to qualify for positions as examiners. Some five or six of the present examiners received their training under the writer of this letter.

5. The question of taking a bond from examiners acting as temporary receivers of failed banks is now left to the discretion of the Comptroller of the Currency. As a matter of business judgment, I think it would be desirable for the Comptroller, for his own protection, to require bond in all cases.

6. For some years I have placed a different construction upon the clause in section 5200 of the Revised Statutes from that held by the Comptroller's department and by some banks.

My view of the meaning of the exception of "commercial or business paper actually owned by the person negotiating the same," and of "bills of exchange drawn in good faith against actual existing values," is that the amount of such classes of paper is not limited by the restriction so long as the direct obligations of the makers of any of this paper, when added to the amount of such paper, did not exceed the limit of any one name. In other words, "A" has the right to sell his bank an unlimited amount of his bills receivable, bearing his indorsements, made by "B," "C," "D," "E," "F," etc., provided that the total amount of such paper made to "A" by "B," or by "C," or by "D," or by "E," or by "F," added to any other loans made by the bank to these same makers, does not exceed the legal limit; but I do not think the makers of the law in question contemplated by this exception that they were giving "A" the right to sell to his bank an unlimited amount of paper made in his favor by "B."

If this were the case, then the logical conclusion of the law would be that "A" could sell to the bank an unlimited amount of "B's" paper, taken in good faith by "A," or actually owned by "A," aggregating sufficient to absorb the entire capital, surplus, and deposits of the bank, without violating the law. Such a construction of the law seems to me would be unreasonable and would serve to defeat its objects. However, as the section stands now, it is very ambiguous and should be changed so as to make clear that the exception does not permit of a loan illegal in amount being made by a bank by means of buying excessive lines of one man's paper from another man who endorses it.

So far as amending the law to limit the amount of bills receivable which a bank can properly discount for one of its customers, where none of the bills aggregate an excess loan to any one maker, I think this matter should be left to the judgment of the Comptroller, and that he should be given authority to take action, when in his judgment an excessive line of bills receivable is bought from any one customer.

7. I do not see any legal or practical way in which depositors can be protected by the Comptroller after an assessment is ordered to make good an impairment of capital; but I think three months' time is too long to allow in having the assessment paid in; thirty days should be ample time for the collection of an assessment, and the bank should be prohibited from making any loans whatever after an assessment is ordered until the same shall have been paid in.

8. I think officers and directors should be permitted to borrow money from their own banks, but in such cases it seems to me the officer should be required to make a written application to the board for his loans, and the same approved at a later meeting of the full board.

9. I do not see any practical way of preventing corporations from holding stock of national banks.

If such a law should be enacted it would be a simple matter for the corporations interested in any national bank to have the stock placed in the individual name of its officers or employees, as is often done at the present time.

10. I do not think it would be practicable to prohibit the operation of another banking institution in the same building with a national bank. A more practical way for preventing the substitutions of securities and cash, during an examination of a national bank under such circumstances, is for the examiner to arrange with the state examiner to make the examinations of both institutions simultaneously.

11. It would be very beneficial to proper examinations of national banks to have two copies of the bank report furnished to the Comptroller by each bank. It seems to me the banks would do this now if they were asked to do so by the Comptroller at each time a call was made, without requiring special legislation on the subject.

12. I think it would be a very great protection to the national banking system and to the public to require in published reports of each bank that the aggregate liabilities of the officers and directors should be printed as part of the report, in the same way as is now required of state institutions by the banking laws of New York State.

13. I think that the Comptroller should have the right to suggest his own deputies.

14. While section 5209 of the Revised Statutes does not mention the Comptroller of the Currency, yet the courts have decided that inasmuch as it does make it a crime to deceive "any individual person" by "any false entry in any book, report, or statement of the association," the term "any individual person" is sufficiently broad to include the Comptroller of the Currency; and I think you will find, by looking up the decisions further, that false reports made to the Comptroller of the Currency have been deemed by the courts as sufficient to secure conviction.

15. If the law could be changed so as not to involve innocent stock-holders who had transferred their stock in good faith before the failure of the bank, I think it would serve as a protection against insiders thus transferring their stock; but the matter of good faith would have to be determined by the courts.

16. I think the Treasurer should be authorized to draw his drafts on delinquent banks to make up the deficiency of their 5 per cent redemption fund.

17. I could never see any reason why a bank should not be allowed to have all of its circulation in five-dollar bills if the officers so desired. To limit the amount to one-third is an unnecessary restriction on trade.

18. The receiver of a failed national bank should be permitted by law to borrow money and pledge the assets of the bank as collateral for same whenever in the judgment of the Comptroller it was deemed advisable to do so for the purpose of paying off the depositors without delay.

19. I have no suggestions to make relative to the changes in the organization of the Comptroller's office.

In reply to your final request I believe a great step toward the improvement of the national banking system might be made by amending the law so as to permit national banks to establish branches.

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OCTOBER 18, 1908.

John M. Hale,  
National Bank Examiner,  
Chandler, Okla.:

Receipt is acknowledged of your circular of the 26th ultimo, and although addressed to officers of banks, I presume by also sending me one you also desire a reply from me, hence this letter.

1. I believe that examiners should be subject to civil-service rules so far as their appointment is concerned, but that the Comptroller of the Currency should have the power, subject to approval of the Secretary of the Treasury, to make the appointment from the list of eligibles and to remove at will.

2. I think that a salary system, including necessary expenses, would yield the best results.

3. The law should provide that the assessment to pay salaries and expenses should be based on capital and gross assets. That plan would be much more equitable than the one that now obtains.

4. If civil-service rules are not to be followed in making appointments, then I would deem it advisable to leave the appointment of examiners to the Comptroller. The appointee should, however, have had a certain number of years experience in active banking or kindred occupation to be eligible to appointment.

5. Examiners in charge of failed banks as temporary receivers should give bond, cost of same to be paid from assets of the failed institution.

6. This is an extremely hard question to answer. A limit on the purchase of or discount of commercial paper that would be safe and equitable in one State might be unsafe in another and might

paralyze business in still another. The present law permits of a direct loan of 10 per cent of the bank's capital and surplus not to exceed 30 per cent of its capital. I think that if the banks were permitted to discount or purchase bills of exchange in a sum not to exceed 30 per cent of the bank's combined capital and surplus, while too small probably for some localities and too large for others, would, in general, suffice for all ordinary business requirements. The Comptroller should be given authority to fix and enforce without recourse to the courts penalties for violation of any limit that may be fixed by law on the amount of bills of exchange that a bank may discount for one firm or interest. The penalty should be either a fine, removal from office of the offending officer, or both at the discretion of the Comptroller. The offending officer's stock should be nontransferable until the fine was paid, and if he failed to pay any fine that might be assessed the Comptroller should have the power to declare the offending officer's stock canceled, issue new stock in lieu thereof, and sell same at public or private sale to cover amount of fine. Where it can be or is ascertained that any one firm or interest is discounting its bills to various banks, the aggregate of which is, in the judgment of the Comptroller, in excess of safety or the firms or interests financial responsibility, the Comptroller should have the power to direct the various banks holding such paper to collect or dispose of same within a given period. Failing to observe such order, the Comptroller should have the power to apply the same penalties as though the paper in question was excessive in amount.

7. Yes. The Comptroller should have the power to protect depositors as suggested in this question. The most equitable method would seem to be to make such depositors preferred creditors. It seems to me, however, that the three months allowed in which to make an impairment of the capital good is too long a period.

8. Officers and directors should not be permitted to borrow from their own bank, directly or indirectly.

9. Yes.

10. While the occupancy of the same building by two banks may enable improper relations to exist between the two banks and facilitate measures to mislead the examiner, it seems to me that if the examiner understands his business and uses ordinary precautions the danger is too slight to warrant special laws on the subject.

11. I think that two reports should be furnished the Comptroller, one to be transmitted to the examiner by the Comptroller.

13. In view of the fact that the Comptroller of the Currency is held own bank, I think it wise that the public (depositors and other creditors) should know the aggregate amount so loaned. I would, however, include amounts loaned to bookkeepers.

13. In view of the fact that the Comptroller of the Currency is held directly responsible for the proper administration of his office, I think he should have the power to appoint his deputies, subject to the approval of the Secretary of the Treasury.

14. Yes.

15. Yes.

16. Yes. The Comptroller should be empowered to draw, with protest, at sight, on the delinquent bank. I think that the moral

effect would reduce the number of delinquent banks to a minimum, if not eliminate them entirely. A fine for failure to pay the draft, so much for each day of such failure and no option on part of the Comptroller to waive collection of the fine, would certainly cure the ill.

17. In the cotton and wheat districts each yearly recurrence of the movement of the crops reveals a shortage of five-dollar bills. In my judgment, banks should not be restricted at all as to the denomination of the bills they desire issued.

18. Yes.

19. No.

In addition to the foregoing, I would respectfully make the following suggestions. In my judgment, no one but the examiner for the district in which a failed bank is located should act as receiver. No additional compensation should be allowed him other than the regular salary or per diem as the case may be; however, he should be allowed all necessary assistance under the direction and approval of the Comptroller. Cost of liquidating the bank and time consumed in so doing would be materially reduced and true value of assets more nearly secured. If the time necessarily consumed was interfering with the regular duties of the examiner, an outside examiner could be sent into the district temporarily. One of the strongest arguments used in this State by the supporters of the depositors guaranty law is the heavy expense entailed and time consumed in administering on failed national banks. This argument is used in every State in the Union. I would suggest the same method of handling bank officers who violate the provisions of section 5200, United States Revised Statutes, in making loans to individuals, as I have suggested in answer to question 6. In my official capacity I find that some partnerships convert into a corporation, apparently, so that their borrowing capacity may be enhanced. The corporation borrows up to the limit, then one or more of the stockholders also borrow up to the limit. Ostensibly each loan is separate from the other, although the examiner may be morally certain that all the money so procured was eventually used for the benefit of the corporation. The examiner may report his conclusions, but same could not be considered positively. In my judgment, the law should be so changed as to permit the Comptroller to class loans to corporations and individual members thereof the same as he would loans to firms and individual members thereof and when same appears as excessive, then apply the same penalty as heretofore suggested. I would also suggest that when a stockholder owes the bank in which he holds stock his stock should be nontransferrable during the life of the debt and the bank should be held to have a first lien on the stock or so much of it as may be necessary to liquidate the debt. Some banks use old-fashioned or incomplete methods of bookkeeping or methods that admit of easy manipulation. The Comptroller should have the authority to direct the installation of up-to-date, complete methods wherever necessary. For most violations of the national banking act the penalties, if enforced, would ruin the bank. For all violations other than criminal, the Comptroller should have the authority to assess fines; fines so collected to go into a fund from which to pay the expenses of the Comptroller's office, extra examinations, etc.

NOVEMBER 5, 1908.

Claud Gatch,  
National-Bank Examiner,  
Salem, Oreg.:

After some thought upon the questions contained in your circular letter of July 26, 1908, and sent me, beg to answer as follows:

1. Not as to appointment, but as to tenure of office, yes; and based upon banking experience of some years, say five or more.
2. Per diem will not be satisfactory, the examiners likely to lengthen out the time of verifying accounts, etc. A salary and expenses best, but must be sufficiently large to retain competent examiners, many of whom have left the service and returned to the banks.
3. Yes, by all means; not fair otherwise.
4. Yes, if best service is to be obtained. Examiner to select, with consent of Comptroller.
5. Yes, if it would not cause delay in the examiners taking possession and protecting depositors by quick occupation of banking quarters.
6. Drafts against existing values not to exceed say 80 per cent of said value to be advanced are safe, but discounted notes should depend entirely upon the strength of makers, independent of indorser, for value, if together with money borrowed they exceed the limit 10 per cent of capital and surplus. Directors and officers should not be put in a different category other than I give in answer to No. 12. A penalty should be provided.
7. Do not see how a distinction can be made in such a case and do not think it should be made. All depositors should be fairly treated.
8. Should be decided by one fact—are the loans good?
9. Certainly.
10. By all means. Yes. Yes. Yes.
11. Duplicate reports should be made, both forwarded to the Comptroller and one forwarded by the Comptroller to the examiner. If the bank desires, let them make triplicates, the bank then retaining one.
12. In published reports the collective and allied interests should be given and this by all means.
13. No; not as a result of examinations, but on service, experience in the department, or banking knowledge, experience.
14. I am surprised at this; thought from my experience and from reading decisions in the Digest of Comptrollers' Decisions that fully covered.
15. Certainly.
16. Authorize the Treasurer to draw upon the defaulting bank for amount, and if draft is dishonored proceed to sell bonds.
17. Yes.
18. Payment should be made as rapidly as possible.
19. The directors of a national bank should be held to more accountability than at present. No bank goes wrong which has an energetic board of directors who regularly examine into its affairs and do so thoroughly and not perfunctorily.

OCTOBER 16, 1908.

J. C. Johnson,  
National-Bank Examiner,  
Hot Springs, S. Dak.:

I beg to acknowledge receipt of your circular letter of the 26th ultimo, dealing with the proposed changes in the national-banking laws, and to submit my opinion, as requested, regarding them in order:

1. Some test of capability and fitness should be required in making appointments of national-bank examiners. Civil-service regulations would no doubt be effective in getting good men. Actual experience of at least three years in a bank should be a requirement.

2. Salary and expense basis of compensation for national-bank examiners would be preferable to the fee system.

3. It would be more equitable to base the assessment of banks for pay of examiners on the gross assets at the time of examination, rather than on the capital stock alone.

4. A force of assistant examiners to work in cooperation with examiners in the larger cities, the force of examiners to be recruited from these assistants, would be admirable.

5. Bonds should be required of national-bank examiners in charge of failed banks as receivers.

6. There should be a limit imposed on the amount of commercial or business paper a bank may discount for a customer. This limit should not exceed 10 per cent of the capital and surplus, and not more than 30 per cent of the capital in any case. This suggestion is not to be understood to interfere with the bank making the same customer a direct loan, as now provided by law, in addition. In my experience as a national-bank examiner, I find this "exception" as to commercial paper is generally abused, a great many banks discounting notes of the commercial-paper class several times as large as they would be permitted to take in the shape of a direct loan. This is a most serious defect, in my opinion, in the national-banking laws. Annulment or cancellation of charter is too drastic a penalty for violation of the law as to the limit of loans. A penalty in the shape of fines imposed on the bank would no doubt be effective, regulating the fine in proportion to the amount that such excessive loan may exceed the lawful limit. For continued violation of the law, the Comptroller might require the resignation of the guilty officers and directors.

7. The stockholders may avoid an assessment to make good the impairment of capital stock by voting to reduce the capital stock, provided the amount of capital stock when so reduced would not be less than the amount required by law for the place in which the bank happened to be located. Where the capital stock is the minimum required by law for the place in which the bank is located, and accordingly can not be further reduced, the Comptroller might require a bond, satisfactory to himself, to be given by the stockholders for the amount of the impairment, allowing the stockholders three months to pay up their assessment.

8. Officers and directors should be permitted to borrow of their bank just the same as any other customer, except that when they do borrow, such loans should be specifically approved by a majority of all the directors and their approval recorded on the minute book of the bank and signed by the directors.

9. Where stock of a national bank is held by another corporation, the directors of both corporations being the same individuals, a bond for the stockholder's liability might be required.

10. While the operation of another banking institution in the same building with a national bank as associated institutions is very objectionable for many reasons, yet it seems that in the larger cities, at least, the practice is now so well established that great hardship would result by adverse legislation. A simultaneous examination of both institutions should always be arranged for. There is, however, always the danger of serious complications to the national bank should trouble ensue with the other institution.

11. Reports should be made to the Comptroller in duplicate and one copy furnished the examiner by the Comptroller, as suggested.

12. It would be very unwise and detrimental to the best interest of the bank to publish the aggregate liabilities of the directors to the bank. Such legislation would make it difficult to get good men to serve as directors.

13. No harm could result, so far as I can see, if the deputy comptrollers of the currency were to be appointed under civil-service regulations.

14. The law should by all means be amended to cover this very serious defect.

15. If practical the law should be so extended to insure the enforcement of the stockholder's liability in every case. Could not the law be so framed as to make void and fraudulent any assignment of stock or sale or transfer of any other property by a party within four months of the failure of the bank, when such party's liability as stockholder would be avoided by such assignment or sale?

16. This defect might be cured by the Comptroller making draft on the bank whose notes are redeemed without waiting for the remittance from such bank, the said draft to accompany the currency (incomplete or fit for circulation) in transit, and be presented and collected by the postmaster or the express company when the currency is delivered to the bank by either agency, and the money, when collected, be forwarded to the Comptroller for the credit of the bank's 5 per cent fund.

17. Ordinarily I hear but little complaint of the scarcity of \$5 bills. At certain seasons of the year, however, more of them in circulation would be desirable.

18. The receiver might be authorized to borrow for this purpose, using the assets of the failed bank as collateral, if he could be able to obtain such a loan. As the assets are collected the loan could be liquidated.

19. The various changes as suggested by Comptroller Murray seem to me to be admirable, particularly the proposed bureau where the examiners might obtain information pertaining to any concern known to be borrowing of banks all over the country, as is often the case.

*Other changes.*—The purpose of the law as to the limit of loans is very frequently defeated by the organization of corporations all owned by the same individuals, each corporation obtaining a limit loan at the bank. As the law is at present, a single interest or syndicate by means of this evasion could borrow all the money in the bank and yet not violate the letter of the law. This is practiced exten-

sively by the grain and elevator interest and also by the dressed-beef interest, as well as other large concerns which borrow extensively. I have found in many instances limit loans to a dozen different corporations, all of which corporations were owned by the same people. This also prevails in the country districts to some extent, and the policy of incorporating one's business is becoming general in the small towns. By this means they are able to borrow the limit in the name of each corporation. The danger lies in the fact that the embarrassment of one corporation would be sure to affect all the others owned by the same people. The law should be so amended as to apply the present limit of loans to such cases when it is ascertained that these various corporations are owned by the same people.

Directors should be obliged to attend to their duties by being present at the board meetings, making occasional examinations of the bank, particularly in examining loans and investments of the bank. Failure to do so should submit them to fine, or they should be obliged to resign for failure to do their duty as directors. Their presence at the board meetings and the accuracy of the minutes of such meetings as recorded by the secretary, particularly where loans are examined and approved, should be attested by fixing their signatures to the minutes. In the case of the failed Hot Springs National Bank, of which I am the receiver, I found the directors disputed the correctness of the minutes as recorded by the cashier, who had them recorded as present and voting for certain loans, when, as a matter of fact, they did not attend.

The president and cashier of a bank before being allowed to act as such should be required to submit to the Comptroller a report of their business experience for the past year or two, what experience each has had in a bank, etc. They should also give the names of several prominent persons not connected with the bank as references. The bank examiner for the district could verify this report as to the experience and character of the president and cashier. Some investigation undoubtedly should be made of the character and reputation of those who are to manage the bank, for, after all, a bank is no stronger than its management.

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NOVEMBER 4, 1908.

R. L. Van Zandt,  
National Bank Examiner,  
Fort Worth, Tex.:

I have the honor to submit herewith my replies to questions in your circular letter of September 26, 1908:

1. Civil service.
2. Salary and expenses in order that an examiner can afford to follow up a slight clue which might lead to important disclosures.
3. Capital and gross assets, that being the only equitable adjustment of charges.
4. No. Examiners should be authorized to employ necessary assistance and include cost of same in expense account. Person employed, compensation, and necessity for same to be specifically authorized by the Comptroller in each instance.
5. Not practicable to fix amount until after bank has closed, owing to the wide range of liability.

6. Written authority, signed by a majority of the board of directors, should be filed with Comptroller when amount of discounts exceed limit allowed on direct loan, and Comptroller should be empowered to force reduction in any line when, in his judgment, prudence demands. Officers and directors should be in different category, and penalty should be provided for any violation.

7. In view of the fact that when the capital of a bank is impaired to an extent which may be ascertained by an examiner, there are usually further losses not immediately ascertainable, the Comptroller should be authorized to place an examiner or other agent in charge of a bank when he is satisfied that the capital is impaired to the extent of 50 per cent. Such agent to remain in charge until the impairment is made good.

8. No limitation as to inactive officers or directors except as suggested in answer No. 6. No officer should be permitted to lend to himself, his near relatives, or to enterprises with which he or they are connected, except upon recorded specific authority from a majority of the board of directors—a majority of the directors assenting not being financially interested in the borrower.

9. Statutes should prohibit the holding of shares of a national bank by any corporation except when taken for debt, and a limit should be placed upon the length of time it may be held. Further provision should be made for the bank to acquire this stock at book value if not disposed of before the expiration of this limit, and for its disposal to personal owners within a limited time thereafter.

10. Strict provision, with penalty, should be made to prevent a national bank from operating in the same or connecting rooms with any other banking or loan institution. In my opinion this is one of the most needed provisions.

11. Reports should be made in duplicate and both copies forwarded to the Comptroller. Duplicate should be indorsed in Comptroller's office and returned to bank, to be kept on file for use of examiner.

12. In published reports loans and overdrafts should be itemized as follows:

- (a) Loans on which officers or directors are liable as payers.
- (b) Loan on which officers or directors are liable as indorsers.
- (c) Other loans and discounts.
- (a) Overdrafts on which officers or directors are liable.
- (b) Other overdrafts.

13. Not a matter for discussion by examiners.

14. By all means.

15. Liability should not cease until some time following the date of transfer, say, six or twelve months.

16. A penalty consisting of a fine, the amount of which shall be contingent upon the amount of the redemption fund and the duration of the delay, would provide for the compliance with this statute.

17. Banks with a capital of less than \$100,000 should be permitted to issue their entire circulation in the denomination of \$5 if desired.

18. From my experience in handling the affairs of three failed national banks I believe that any arrangement along such a line would be accompanied by risk which it would not be proper for the Government to assume.

19. The Comptroller should be given more authority in cases of violations of law, and penalties should be more severe in many instances.

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Frank L. Fish,  
Vergennes, Vt.:

1. Made subject to civil-service rules. Yes.
2. Should be changed to a salary basis.
3. Yes.
4. Should doubt the wisdom of this.
5. It would be good business, but if trust is to be held for short time only this would not be necessary in all cases.
6. Repeal this provision. Yes. No. No.
7. The Comptroller should have power to close such banks at once. He should also have power to order the assessment paid within a shorter time.
8. Should not make any difference between officers and directors. Should not object to an officer borrowing if he is good.
9. No.
10. Should not go further in this direction than to give Comptroller power to say whether two banks should be allowed in same building or not.
11. Yes. I have recommended this course before.
12. No.
13. No.
14. Yes.
15. Yes.
16. Give Comptroller right to draw on bank and to bring suit if necessary.
17. Yes.
18. I have no plan for this. Of course a fund might be created for the purpose. If the guarantee of bank funds ever becomes practicable this will solve the question.
19. No; except as indicated. My general idea is that examiners should be chosen from among bankers rather than politicians.

I recommend a careful study of the Canadian plan of examinations. It is much better than ours. All examiners should be paid an annual salary. They should be furnished a clerk or clerks and all expenses should be paid. A limited field should be given each examiner and he should become master of all the details in all his banks.

I am not now an examiner, having resigned my commission last May. This, however, does not prevent my advice being of service, I trust.

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OCTOBER 24, 1908.

Eugene T. Wilson,  
National-Bank Examiner,  
Seattle, Wash.:

Replying to your circular letter of September 26, asking for suggestions relative to the proposed changes in the national banking laws, I beg to submit the following:

1. I think the present method of appointing examiners should be continued, except that ability and fitness should govern rather than

political influence. I think, however, that the civil-service rules should apply to the tenure of office, providing that the examiners are placed on a salary.

2. I am of the opinion that examiners should be paid a salary with expenses; a sufficient salary to attract the best class of men to the service. The per diem system would not be practical and would give loafers and drones an opportunity to impose upon the banks by extending their time in making an examination. This would cause unlimited complaint and dissatisfaction from the banks. If an examiner does not do his work he should be removed immediately.

3. In making assessments for the payment of examiners, I think the total footings of the general balance book, which are in fact the total assets, should be taken and made the basis of the assessment. Some banks capitalized at a very small figure have more work for an examiner than others with a high capitalization. If the total assets are made the basis, the examiner will be paid in proportion to the amount of work he does.

4. I think that an examiner who has reserve cities upon his list should have one or more assistants. This is necessary in making the examination in the larger banks, and in districts which also include country banks, the assistant could devote his time to making reconciliations of the accounts of correspondent banks while his chief was engaged in examining the small banks. This is important, for the reason that it is sometimes months before an examiner who makes his own reconciliations and attends to his own official correspondence can effect a reconciliation which should have prompt and immediate attention.

5. I do not think a bond should be required unless he is to be the permanent receiver.

6. I do not see how a general law can be framed to cover this condition. Something must be left to the judgment of the bank officers and the examiners. Prompt enforcement of the recommendations of the examiners and the requirements of the Comptroller's office will do more to stop this class of borrowing than any law.

7. I do not think a preference should be given. It would hopelessly complicate matters to do so. So long as the bank is allowed by the Comptroller to continue business as a solvent institution, all depositors must be placed in the same category.

8. Officers should not be allowed to borrow from their bank without the unanimous consent of the directors made a matter of record. Directors should be allowed the same credit as though they were not directors, no more. And then their applications should require the assent of the other directors.

9. I do not think a corporation should be allowed to hold shares in a national bank except when taken for debt, and then for a limited time only, say, six months.

10. Yes.

11. Reports should be made to the Comptroller in duplicate, one to be retained in that office and the other to be sent to the examiner by the Comptroller after comparison with the one retained in the office.

12. Collectively, yes.

13. I think that both deputy comptrollers should be appointed by the Secretary of the Treasury, to be subject to civil-service regulations after appointment.

14. I believe the law should be made more explicit on this subject, although I think it is covered now. I assisted in the conviction of a bank president at Spokane about two years ago on the charge of making a false report to the Comptroller and he got five years for it. (See 91 Fed., 864; 157 U. S., 286.)

15. Yes.

16. The Comptroller should have some authority conferred upon him or upon some other Treasury official by which the law could be enforced. He might be authorized to draw for the amount, the dishonor of the draft to be treated as an act of insolvency.

17. Yes.

18. I think some plan of this kind would be advisable if it could be done without the department taking too many chances.

19. No.

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OCTOBER 19, 1908.

M. A. Kendall,  
National Bank Examiner,  
Parkersburg, W. Va.:

Replying to your circular letter of the 26th ultimo, concerning proposed changes in national-bank act, I beg to reply briefly to some of the questions. I make no reply to others, for the reasons that I do not consider them important or do not feel qualified to discuss them.

1. The present system is all right if properly administered.

2. The fee system would be all right if made equitable. (See answer No. 3.)

3. Yes.

4. The objection to this would be that the force would constantly be recruited from the large centers and they might not be equipped for the work in the rural sections.

5. Yes.

6. There should be some amendment to the law and some restriction placed on this character of loans.

8. The present law should be rigidly enforced against officers and directors, but they should be allowed the same privileges enjoyed by outsiders.

9. The practice you refer to is pernicious and the remedy suggested is wise.

10. Where another banking institution is operated in the same room with a national bank it should be required to submit to an examination by the national-bank examiner, to be made simultaneously with the examination of a national bank, and the examiner should receive for such work the regulation compensation.

14. It should.

15. Yes.

17. Yes.

18. Yes.



## REPLIES RECEIVED FROM CLEARING-HOUSE ASSOCIATIONS.

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OCTOBER 16, 1908.

Joseph T. Talbert,

President Chicago Clearing-House Association,

Chicago, Ill.:

I inclose herewith my formal reply to your circular to me of September 26 asking various questions regarding proposed changes in national-bank laws. I have given this matter careful consideration and trust my answers may be of some benefit in the deliberations of the committee.

I may say that some of the opinions are based upon actual experience as a national-bank examiner, in which capacity I served from 1893 to 1897 in various parts of the country, including the South, West, and Northwest, and finally here in the city of Chicago. My answers may be unnecessarily lengthy, but it seems difficult to deal with this subject properly in any briefer manner. I have answered your questions *seriatim* by numbers.

1. The present method of appointing examiners should be abandoned in so far as any political influences are concerned. Appointments should be made solely on the ground of experience, fitness, and general qualifications, including the very essential one of good, sound judgment.

To gain the necessary practical knowledge an examiner should have had at least five years of actual experience as a bank officer, not merely as a clerk or even as a director; or he should have served as is recommended elsewhere as assistant examiner for at least three years, and he should be not less than 30 years of age when appointed a regular examiner. It is a fact that many excellent examiners had no experience as bankers whatever, but they are the conspicuous exceptions. It is also a fact that a number of men less than 30 years of age have made splendid records as examiners, but as a rule the younger men are likely to be not only inexperienced and of immature judgment but probably self-conceited and overzealous, with an inclination to talk too much about the affairs of banks they have examined. I have known a number of instances of this kind. Experience and good judgment are essential in cases where examiners are called upon to act as temporary receivers of failed banks. Lack of practical knowledge has caused many a costly mistake which neither the Comptroller, the public, nor unfortunate shareholders ever discovered.

It would weaken and ultimately deteriorate the service if the tenure in office should be made subject to civil-service rules. I respectfully refer to the report of Comptroller Eckels on this subject in 1896 or 1897, where the subject is fully discussed and he takes a strong stand in opposition.

2. The fee system is bad. Examiners should be paid a fixed salary equal at least to that which men of experience and ability command

as officers of moderate-sized banks, say from \$5,000 to \$10,000 a year, according to length of service and general fitness, with additional allowance for necessary traveling and office expenses. The service can only be brought up to a degree of high efficiency by following recommendations along the lines indicated in answers 1 and 2. If the examinations were more thorough, more complete, and more efficient there would not have arisen the public demand for guaranty of national-bank deposits. In my opinion the best way to combat that demand is by bringing the work of the examiners and the whole bureau of the Comptroller up to a high standard of efficiency, with means and determination to rigidly enforce the law.

3. Levying assessments to pay examiners should be upon the basis of gross assets, without respect to capitalization.

4. It would be highly desirable to provide a corps of assistant examiners, especially in large cities, and to recruit the force of regular examiners from them. The office of assistant should not be made a short cut, however, to a regular examinership; they should serve a definite term of apprenticeship. Assistants should be chosen as young men, between 25 and 30 years of age, and in order to be eligible they should have had at least three years' experience in a bank and be thoroughly familiar with all departments of bank work. They should serve as assistants at least two years before being eligible for appointments as examiners.

5. It is entirely proper that examiners should give bonds. Such bonds should for obvious reasons not be made by individuals, but by responsible surety companies. The premium should be paid by the Comptroller's office and collected by him out of the banks.

6. I would suggest as a proper amendment to section 5200 that all which relates to the discount of commerical paper be stricken out, of course making no change in that part which relates to "bills of exchange drawn in good faith." With any limitation on such documents the moving of crops would be impossible.

The present limitation on loans to any one concern is high enough and the limit should apply to "trade paper" as well as to direct loans. The fact is, the old custom of making commercial paper—that is, notes given in trade settlements—such as is contemplated by the statutes when originally passed has changed. The note broker has created a revolution in the manner and method of lending money. It is no longer necessary for any good concern to settle its trade accounts with notes. The custom has nell-nigh ceased, except in cases of concerns in second or third grade standing, and to these the present limitation is none too low. Aside from these facts, which of themselves clearly prove that the necessity no longer exists for permitting unlimited discount of commercial paper, the law as it stands is subject to easy and dangerous abuses. The power at present vested in the Comptroller should remain unimpaired; but he should have the additional authority and it should be made his duty to fine a bank for making an excessive loan, except when done with the Comptroller's knowledge and consent obtained beforehand. This consent should only be given when the Comptroller is satisfied (after receiving a written statement signed by a majority of the directors), first, that such excess loan is necessary in order to prevent a loss on loans previously made in good faith to such borrowers, or, second, in the

movement of grain, cotton, and other raw merchandise, where the Comptroller is satisfied that excess loans against commodities are necessary to move such commodities to market pending their sale.

The officers should be placed in a different category from directors, and the directors from the general public.

The salaried officers from the president down, and all other persons handling the funds of a bank or having power and authority to make loans on behalf of the bank or to invest its funds, should be forbidden to become liable to the bank in any manner whatever under heavy penalties. These penalties should be—first, fines; second, summary dismissal from office, with incapacity to hold office in a national bank thereafter, and it should be obligatory upon the Comptroller to impose these penalties. All loans made to any company or association in which any officer is interested should be required to be approved in writing by two-thirds of the whole board of directors, exclusive of the interested officer or officers, if they happen to be members of the board. Failure to procure such written approval in advance of making such loans should constitute embezzlement or misappropriation of the bank's funds, and these crimes should not be cured by mere subsequent approval of the board.

It is not practicable and would be highly undesirable, as well as injurious to the whole national-bank system, to forbid the making of loans to directors and to their enterprises. If this should be done banks would be deprived of the services of some of the best men in the community, but all loans to directors and their enterprises should be passed upon and approved by a majority of the board of directors, exclusive of the vote of such as may be interested in the matter. The penalty should be a fine on the bank of not less than 10 per cent of the amount of the loan.

7. I do not see how any preference could be given creditors or how they could be classified in any manner. It would hasten runs and make them more frequent and dangerous. I can not imagine any preferential scheme that would be equitable. If the wholesome changes herein proposed should be instituted there would be small need for preferring any class of creditors.

8. This matter is fully discussed under question 6. Directors should be permitted to borrow under the restrictions indicated, but officers and employees, as well as all persons acting in a managerial capacity, should be absolutely forbidden to borrow from or become liable to their banks in any manner and when done it should constitute embezzlement or misappropriation of funds.

9. However desirable it might be, no statute can be framed which in practical operation can prevent the ownership of stocks in national banks by irresponsible corporations and individuals. In the case of such corporations the name of some officer or other dummy could and would be used.

10. I do not think under modern conditions, especially in large cities, that it is practicable to prevent two or more banks occupying offices in the same building. I am of the opinion, however, that it would be wise and salutary to prevent national banks absolutely from being allied or affiliated in any way with any trust company, savings bank, or other banking institution, except, of course, that a director of a national bank should not thereby be disqualified from being a direc-

tor in any other bank. By way of compensating national banks for the prevention of such alliances they might properly and safely, under certain restrictions, be granted limited trust-company powers and savings-bank privileges. The encroachment of trust companies and savings banks upon the business of national banks is a serious menace. Further reference to this will be found under answer to question 19.

11. Yes; it should be done.

12. No; the effect even in cases of good banks might be disastrous and would almost certainly be so in the case of all bad ones. Publication, even collectively, would tend to disgrace good men serving as directors. In small communities this would certainly be true, for every director who did not owe his bank would be sure to let that fact be known when statements were published. In this way the facts as to who the debtors actually were among the directors would leak out to the dissatisfaction of such men if they were good, because of the annoyance to them in their business operations. Loans to directors when properly made and approved should be subject to no just criticism, and directors should not suffer any penalties or embarrassment by reason of such loans when they are good and legitimately made in the regular course of business.

13. Yes, as to the manner of appointment, though I doubt the advisability of applying civil-service rules.

14. It certainly should be made a misdemeanor for any officer or employee to make false entries on any book or statement with intention to deceive, and it should also be made a misdemeanor for any such officer, clerk, or employee to make any false statement, either verbally or in writing, to an examiner or assistant examiner with intention to deceive or mislead such officer.

15. Certainly, if it can be done; but I feel that the possibility of making it practicable is very doubtful.

16. Yes; the Comptroller should have power to impose a fine for every day's delay after five days' notice, the same as in the case of a delayed report of condition.

17. Yes; the minimum should be at least one-half of the circulating notes outstanding.

18. I doubt the wisdom of this. Assets apparently good to-day turn out to be doubtful or worthless to-morrow. The prompt advance of any considerable dividend on an appraised value of the assets of any failed bank would be very hazardous. Where would the loss fall if the estimate should have exceeded the actual value and dividend be overpaid? If such plan should be made possible, would not the fact that the Comptroller did not pay a prompt dividend in a given case argue in the minds of creditors and the public generally that the assets of the bank were wholly worthless and did not justify the payment of any dividend. Again, would not the payment of a small dividend in such case argue that such an amount was all that the assets would stand? Finally, would not the initial advance dividend, whether large or small, therefore come to be construed as the official estimate of the Comptroller as to the value of the bank's assets, and would not this give rise to undue sacrifice by creditors of their claims to speculators and shylocks?

19. Am not informed as to the internal organization of the Comptroller's office, but I believe the Comptroller should be paid a better salary and also that his annual stipend out of the Freedman fund

should be cut off, so as to prevent the ultimate extinction of that fund. The efficiency of the Comptroller's office has been crippled by lack of sufficient appropriation, the quarters are crowded, and the Comptroller reduced to petty economies in all directions. Compare the last two or three annual reports with the full and complete reports that were published a few years ago and note to what desperate straits the department has been forced by lack of sufficient funds to issue public documents.

The staff should be increased, so that letters of criticism should not be mere perfunctory notices of violations of the law, but should be careful analyses of the position of the whole bank, with suggestions and advice on matters of importance, and, where necessary, indications as to what the department would do if the bank did not improve its position. A little lopping off in political appropriations, such as are now made for public buildings and like purposes, for pensions and other such distributions, and more liberal allowance for the great and important bureau of the Treasury Department, would bring excellent results.

Replying to request for recommendations on subjects not covered by your direct inquiries, I respectfully submit the following:

1. Every officer of a national bank should be required by law to execute an oath of office and file the same with the Comptroller of the Currency to the effect that he will not become liable during his term of office, directly or indirectly, to the bank; (2) that he would faithfully and honestly administer the affairs of the bank according to the law. Any willful violation of this oath should disqualify such officer from acting as an officer, director, or employee of any other national bank thereafter, and the Comptroller should have power in aggravated cases in addition to disqualification to fine such offender, and in extreme cases to prosecute him for embezzlement or malfeasance in office.

2. The growing importance of trust companies, due to their wider field of operations and lack of restrictions in many States, as well as to their opportunities for making profits in various ways not open to commercial banks, have made them not only serious rivals of national banks but strong competitors for commercial business, and, indeed, in every line of banking. So far as may be consistent with safety, national banks should be granted the general powers and privileges of trust companies. All trust business should be kept separate from the commercial and banking department and the funds therein invested according to prescribed States. For similar reasons national banks should be permitted to operate savings departments and the investments of savings funds should be limited strictly to the classes of securities such as are now lawful investments for savings banks in such States as New York, Massachusetts, New Jersey, and Connecticut. The right to operate trust and savings departments would not only qualify national banks to hold their business and meet competition, but would remove the necessity which many such institutions, particularly the large ones, now find of establishing allied concerns. From a practical point of view this would possess the very great advantage of bringing all of the assets of the trust and savings departments, as well as the banking department, directly under the visé of the national-bank examiner. Unfortunately, this is not always possible at present where there are allied concerns.

There does not appear to be any good reason why some such method of extending the scope and operations of national banks would not be practicable; indeed the law might even go so far as to make the creditors in the different departments of the bank separate, so that each would rely upon the assets in that department in case of liquidation or failure, the same as if the institutions were entirely separate. That is to say, the banking department could be allowed to do commercial business such as is now done by national banks; the trust department could be permitted to make reasonable loans on real estate, accept trusts, and act as administrator, etc.; while the savings department could conduct a regular savings-bank business, investing its funds in the highest grade savings-bank securities. There does not appear any good reason why the creditors of the trust and savings departments should not be entirely independent of the other department. I believe this would greatly increase the popularity of national banks and strengthen the system by bringing into it many large institutions now doing trust and savings business exclusively.

3. The recent tendency to appoint old and experienced examiners as permanent receivers of failed banks is an excellent idea. It would be still better if the law could be so changed as to make it obligatory upon the Comptroller to appoint as receivers of such banks regular examiners who have been in the service a certain number of years. In other words, to build up a staff practically of professional receivers, which would insure capable administration and would eliminate the present undesirable influence of local politics in such appointments.

4. In many cities, particularly the large ones, suitable offices for the important banks are not easy to obtain without great cost. It is very expensive to purchase ground and erect a building for the exclusive use of the bank, so as a matter of prudence and economy it has been found preferable by many large institutions to put up office buildings or at least buildings to be used for purposes other than the bank's own offices. In such cases, instead of the bank furnishing all the money necessary to construct such a building, it would seem to be reasonable to permit banks to organize building companies and allow the public or the bank's patrons or shareholders to furnish a portion of the money, giving the bank a right to hold and own a controlling interest in the stock of the building company. In other words, if a bank is permitted by law to own the whole of a building used as its home, with no limit as to the amount which such a building may cost, it seems much more reasonable that a bank should be permitted to own a part of such a building, especially when used for other purposes, even though the part ownership consists of stock in a building company.

5. Many of the best and most conservatively managed banks in recent years while profits were good have sought to lay aside a "nest egg" as a contingent fund, to be drawn upon in case of unexpected losses, thus preserving the surplus fund and current profits undisturbed. This has been done on the theory, which is borne out by experience, that a certain percentage of losses always will be sustained, and conservative bankers have desired to place their institutions in position to provide for such losses when sustained, without the notoriety and unfavorable comment which would be made by com-

petitors and the public when a bank should publish a statement disclosing heavy inroads on surplus fund or undivided profit account. Under the present law the accumulation of such a fund can not be done without some secret evasion, to which the Comptroller very properly has objected. The law should recognize and encourage sound banking in every form, and the carrying of such an account certainly tends to strengthen a bank.

I would respectfully suggest that up to a certain point a bank be permitted to accumulate such a fund and carry it on its books, but not publish it in any statement. The amount could very properly be deducted from loans in published statements or from the investment account; that is, bonds, stocks, etc., because it is in the loans and investments that losses are sustained, and any provision against such losses in the way of a contingent fund might very properly be deducted from the investments or loans. This would not only be a prudent thing, but it would be well if the law went so far as to require such a fund to be established and maintained at a figure equal to the average annual losses of the bank, computed for a period of five years. In the case of new banks the fund might be gradually accumulated in a manner similar to that which the surplus fund is now accumulated. The amount and disposition of such fund, together with all facts related to it should, of course, be reported to the Comptroller in schedule prepared for that purpose, but not published.

6. The law should be so changed as to prevent banks reporting as profits the discount or interest collected but not earned. The form of statements made to the Comptroller and published should provide for this, and also they should show the amount of interest on deposit liabilities accrued, but not due at the date of the statement. No statement or report of condition is even approximately correct which does not show discounts collected and not earned, as well as liabilities accrued but not due.

7. The law should require somewhat more of directors than is now done and they should be held to a stricter accountability. By this I mean, first, they should be required, not merely admonished, to meet at least once a month; second, at each meeting all loans, discounts, and investments made since the previous meeting should be read and approved in writing by the directors personally, in a book kept for that purpose, and if there be not a quorum of the directors present the approval should be formally made at the next meeting when there is a quorum; third, directors should be required to make themselves or cause to be made by competent accountants at least one examination of the bank a year, and a report thereof signed by a majority of the board should be made to the Comptroller of the Currency on a form furnished by his office for that purpose. The report should show in addition to the general statement and customary schedules such as are now required to be made five times a year, the details of all overdue and suspended paper, all notes, overdrafts, claims, judgments, stocks, investments, or debts due the bank which are bad, doubtful, or subject to any question or anxiety and the probable or actual loss estimated thereon. All loans to directors or companies in which directors are interested should be scheduled, and the approval of the board at the time the loans were made should be shown. All loans or parts of loans which have been carried over by renewals or other-

wise longer than one year should be listed and the reasons therefor stated; all matured loans which run for one year or longer and all which are improperly secured or on which any ultimate loss is probable should be stated. A statement of all real-estate loans, its conditions, location, value, prior mortgages, and income, and in general every fact or thing affecting the bank's standing, position, or solvency should be fully set forth over the signatures of the directors themselves.

If these suggestions, together with those which have been made by yourself, could be put into our statute books, there would be very little need to complain in future of the conduct of national banks. The circumstances would be exceedingly unusual when failure occurred, except where some officer should run away with all the funds of the bank.

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OCTOBER 13, 1908.

Ernest S. Brown,  
Manager San Antonio Clearing House Association,  
San Antonio, Tex.:

Replying to your circular letter dated September 26, inclosed, your questions are numbered, and I will number my answers to correspond with these:

1. I think it would be wise to require bank examiners to stand a civil-service examination.
2. I think the bank examiner should be under salary.
3. In making assessments to provide a fund to pay examiners the assessment should be based on the capital and total deposits.
4. The fee paid bank examiners now appears to be large enough to allow for their providing their own force of assistants; if they were put on a salary and the salary based on the present fee, I think they could still provide their assistants.
5. Examiners taking charge of failed banks are usually strangers in that locality and it would be impossible for them to furnish personal bonds; if they were required to furnish an indemnity bond it would be quite an expense. I think in all cases they should be temporary.
6. It would be hard to place a limit on the amount of bills of exchange a bank could discount for their customer; still, I think this ought to come under the supervision of the Comptroller, and when an examination is made the examiner should scrutinize this class of paper closely, and if in his judgment he thinks it is not good the Comptroller should have power to limit the amount.

Directors and officers should not be placed in a different category from general creditors.

There should be a penalty against officers and directors for the violation of any instructions from the Comptroller.

7. I don't think depositors making deposits after a bank's capital has been impaired should be placed in a separate class.
8. If the present limitations for loans are strictly adhered to, I think they sufficiently limit the loans to officers and directors.
9. I don't think the law could control the holding of national-bank stock by corporation; in some instances it might be to the bank's

advantage to have some of their stock owned by a corporation. I don't think this amount should ever exceed 20 per cent of the capital of the bank.

10. I don't think it is wise for two banking institutions to occupy the same building; still I don't see how the Comptroller can control this.

11. I think it would be wise to have banks forward two copies of their statement to the Comptroller, one for the use of the Comptroller and the other for the examiner. The Comptroller will have to furnish three blanks, as most banks want to keep one copy.

12. I don't think it would be wise to publish the liability of officers and directors.

13. I would recommend that both deputy comptrollers be appointed as a result of a civil-service examination.

14. I think the statutes should be changed to make it a misdemeanor for an officer or an employee to make false entries with intentions to deceive the Comptroller.

15. The law should be changed so as to make it possible to enforce the liability of shareholders who have foreseen the insolvency of a bank and have transferred their own stock to escape liability before an assignment is made.

16. The law should be changed so as to allow the Comptroller to charge interest on overdue remittances due them to cover redemption of circulating notes, say, at the the rate of 6 per cent and increased 2 per cent every thirty days.

17. There doesn't seem to be any necessity to limiting the amount of five-dollar bills a bank can issue.

18. I think it would be wise to recommend in liquidating banks that as large assessment as possible be paid at the earliest date.



## REPLIES RECEIVED FROM STATE BANKING OFFICIALS.

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NOVEMBER 19, 1908.

M. C. Bergh,  
Commissioner of Banking,  
Madison, Wis.:

I have the honor to submit herewith briefly my answers to some of the questions asked in your circular letter of September 26, 1908, entitled "Suggested changes in national banking laws."

I am not an officer of a national bank, hence I could not see at first why I should answer, but receiving the second letter concluded you wanted to hear my views.

1. I am of the opinion that the present method of appointing examiners is preferable to applying civil-service regulations, but fully realize that some changes should be inaugurated so as to eliminate political pull. Character and fitness should be the best recommendations. After an experience of thirteen years in the work of examining state banks, six of these years at the head of a state banking department, and have seen the work of many men, I can conceive of no competitive examination that will demonstrate the fitness of a person for this work.

2. Salary or per diem basis of paying examiners, allowing them necessary expenses, I think is much preferable to the present system. Fairly good salaries must be paid in order to get good men.

3. The assessment for this fund should be based on gross assets and not on capital alone.

4. In the examination of large banks it is absolutely necessary for an examiner to have a force of assistants to do satisfactory work. If a man proves to be a first-class assistant, he may make a good examiner if he has had such experience as to make him self-reliant.

5. In case an examiner is placed in charge of a bank as temporary receiver, it is perfectly proper to require him to give additional bonds, but the expense should be paid either by the Government or charged to the embarrassed bank.

6. In my experience, it is extremely difficult to frame a law to hold promoters down to a proper limit and not do injustice to a large class of conservative and law-abiding bankers. It is therefore my judgment that the Comptroller should be given all discretionary powers necessary to put promoters out of the banking business. If directors authorize loans to themselves, they ought to be placed in a different category from general creditors. Directors should be held to the strictest accountability.

7. In case of an impairment of capital only no loss should come to the depositors even if the assessment on stockholders was not paid in within ninety days. Where losses come to depositors the bank must have been insolvent and should have been closed instead of an assessment ordered on stockholders. In this connection I might

add that I know of no system of examination and supervision that will prevent bank failures altogether, but rigid examination and supervision ought in most instances to get after the management before the capital and surplus is exhausted, so as to prevent loss to depositors.

8. Officers and employees should not be permitted to borrow one dollar except when authorized to do so by resolution of the board of directors of record in their minute book.

9. The Wisconsin banking law does not permit investments in stocks of any description, and on this point is working well.

10. The commissioner of banking of this State is authorized, in the event that any two banks shall be doing business in the same building, upon the same floor, and in such close proximity as to interfere with the proper examination of either, to require either of said banks to remove its banking office to some other locality.

11. The only objection I can see to requiring duplicate reports is that the Comptroller will receive five duplicates each year, while only two are necessary for the purpose stated in your question. I sometimes require my examiners to make their own report from the books of the bank as of the date of the last call. The examiner's report taken from their books is then compared with the report on file in this office.

12. Publicity seems to be the best cure for all abuses along this line.

13. I doubt the wisdom of dividing the responsibility between two or more departments. As stated in a former answer, I have no faith in civil-service examinations for positions of this kind.

14. The law should be changed to apply to false reports made to the Comptroller. Examinations and reports should be the only agencies employed to obtain information for the guidance of the Comptroller.

15. Our state law limits the liability to six months after the transfer of stock.

16, 17, 18, 19. I am not in a position to answer these questions.

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NOVEMBER 4, 1908.

Harry B. Henderson,  
State Examiner,  
Cheyenne, Wyo.:

There has been forwarded to me, presumably from your office, a list of questions touching the national banking laws. While this office is not advised fully in all matters pertaining to the national-banking system, yet by reason of a long experience in public life we have had some opportunity to make observations which may interest you.

1. I am not favorably disposed to the appointment of examiners by civil-service rules. There is too much theory and not enough practicability in the individuals. I believe that a competent examiner should have a tenure of office during good behavior and efficient service.

2. The examiner should be on a salary and expense basis only. The per diem or rather the charge of so much per bank only prompts examiners to do inefficient work and to cover as much territory as

possible. An efficient examiner, as well as an honest one, will do his work well under a salary basis and will not give more time to each institution than is necessary, but he will give the time to understand the institution's condition. Banks should pay so much per annum according to their capitalization and surplus into the Comptroller's office, and this in turn should be covered into the United States Treasury. The appropriations for salary and expense of examiners should be direct and in no manner contingent upon the fees received. Perhaps it would be prudent to make the rate of tax upon the bank according to its assets rather than capital and surplus.

4. The best examiners that can be secured will be those coming up from the ranks of the office, and the office ought to be recruited by the brightest fellows from banking institutions. In other words, the assistant examiners should be thoroughly acquainted at the time of their appointment with every detail of the management of commercial banks. They should not be cheap men, because the office must have men upon whom the Comptroller and the people can rely and in whom confidence can be reposed.

6. Make it a misdemeanor to violate the provisions of section 5200, Revised Statutes, and if possible the Comptroller ought to have the authority to levy a fine for the violation of the act. Bank directors should be on the same credit basis as other customers of the bank, but with bank officers no loan should be granted exceeding a stipulated amount without the consent of a majority of the board of directors made of record in the minute book of the corporation. This office is opposed to a bank officer borrowing from his own institution, and believes further that bank officers ought to be paid a salary of sufficient amount to enable them to live comfortably without indulging in speculative interests; that their entire service belongs to the bank, and they should be well paid for it, thereby making it unnecessary to enter into business interests of other character.

10. I believe the best interests of the banks would be served by keeping institutions separate, especially as to the office in which business is conducted. In cities you readily understand how two or more banking institutions may be conducted in the same building, but they ought not to be in the same room.

12. The publication of the liabilities of officers and directors collectively would have a very salutary effect and doubtless prevent much overborrowing.

13. I am not favorable to civil-service examinations for either deputies or examiners, because I believe experience will sustain the assertion that the best results are not obtained in this manner. However, the deputy comptrollers, as well as the examiners, ought to have a tenure of office dependent wholly upon good conduct and efficiency of service. Further, experienced deputies in both classes should succeed to the position of head of the office, in this manner eliminating politics entirely.

14. False reports to the Comptroller should be made a felony.

15. Yes.

17. Remove the limit of denomination of currency.

18. It would be desirable always to facilitate the settlement with insolvent banks at as early a date as possible. If the law can be amended to aid in this respect, it would be a benefit to those who are unfortunate.

19. I have hastily given you a few suggestions based largely upon observation and not the result of service with the federal department. The writer has been a bank examiner for fifteen years, and I know personally that the examinations as made by this department are superior to those made by the national-bank examiners. I am frank to confess that the federal banking act can be more easily enforced than state laws for the reason that they are further removed from local politics. We do not allow politics to enter into our business, and for this reason have been fairly successful in the enforcement of the statute, and the state banks are regarded generally as safe and prudently managed as those operated under the national banking act. But the Comptroller has some forces which he can employ which we do not have and, therefore, national institutions are not so difficult to govern, but it is only that fear that prevents failures and not in most instances the efficient service of the examiner. I have known some national-bank examiners who were specialists in their line and who made careful examinations and who were excellent business men, and I have likewise known men who were the reverse to these qualifications. The bank examiner who can be thoroughly acquainted with his field, its resources and its people, will render the best service. I am not in sympathy with the method in effect of changing the examiner every six months or a year.

The writer is hopeful of seeing the national banking act so changed and the banking laws of our country so modified and strengthened as to give us a great central institution instead of the Treasury Department of the United States. When this takes place there will no doubt be greater care exercised, and with it will come an ability by the bank to perform a greater service for the community in which it is situated.

You will pardon me for writing you at length, but I apprehend you are seeking expressions from those who have had practical experience in the subject under consideration.

REPLIES RECEIVED FROM BANKING OFFICIALS IN GENERAL,  
ARRANGED ALPHABETICALLY BY STATES.

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OCTOBER 7, 1908.

R. J. Waters,

Cashier the Citizens National Bank of Los Angeles,

Los Angeles, Cal.:

We beg to acknowledge receipt of your circular of September 26, with suggested changes in national banking laws, and requesting our opinion regarding them.

We will take up your suggested changes numerically, giving our ideas on each question.

1. We think the examiners should be appointed subject to civil-service rules, and that civil-service regulations should be applied to their tenure in office.

2. No. We think conscientious examiners would do just as good work on the present basis, and would certainly be more economical from the standpoint of the banks.

3. Assessments should be based on capital and gross assets, as we think that the banks should pay according to volume of business.

4. Yes.

5. Yes.

6. We think discounts of bills of exchange by borrowers who have already obtained the limit allowed them should be confined to paper which is recognized as good of itself, without the indorsement of the borrower, and should be restricted to a certain extent, say 10 to 20 per cent of the capital and surplus of the bank, except where advances are made on drafts drawn against bills of lading and goods in transit, on which we do not think there should be any restriction. The Comptroller, we think, should be given authority to take action when, in his judgment, loans are being made in excess of a safe limit. Directors and officers need not be classified differently from general creditors in such cases. A penalty should be provided for violation of any change in the banking law which may be made.

7. We do not see how the Comptroller could protect depositors who may, during the three months specified, deposit their money in a bank in which the capital is considered impaired. In the case of commercial accounts, nearly every account would have more than the amount of their balance changing during that time, as deposits are made daily by nearly all those interested in commercial lines.

8. We think that directors and officers, especially directors who are not officers, should have the privilege of borrowing from their bank, provided that such loans are approved by, say, the unanimous vote of the directors at regular meetings.

9. Yes.

10. Yes.

11. Yes.

12. We doubt the advisability in published statements of showing the liability of directors, even collectively, as it might raise criticism on the part of the public which would be undeserved. Nearly all directors are amply good for any loans they make, but the general public does not always take these things into account.

13. Yes.

14. Yes.

15. Yes.

16. We would suggest, with reference to the reimbursement of the Treasury for the redemption of note circulation, that banks be required to remit for all circulation received within one day from its receipt at the bank, with a penalty by fine for nonobservance. We do not think a bank should be compelled to remit for their circulation until it is received at the bank, as it would then be out quite a sum of money all the time, especially where located at same distance from Washington. The 5 per cent fund would undoubtedly cover the shortage if a remittance were made by the bank as suggested.

17. Yes.

18. Yes. Would suggest that the Comptroller of the Currency have authority to pass on assets of failed banks and make distribution in advance of collection through a certain percentage of the estimated good assets, say 75 per cent.

19. No.

OCTOBER 7, 1908.

H. P. Lincoln,  
Cashier the First National Bank,  
Santa Barbara, Cal.:

We are in receipt of your circular letter of September 26 asking some 19 questions relative to the working of the national banking system. I find that we have had no practical experience which would enable us to answer many of the questions which you ask. However, I feel it a duty to reply to such questions as we can.

In reply to question No. 1, the necessity of having as national-bank examiners men of judgment rather than men of only clerical ability, I feel, demands that the appointment be made by the Comptroller of the Currency, and that the system should not be brought under the civil-service rules, because the examinations would then fall into the hands of men trained merely as to the clerical efficiency of the department.

2. I do not think it will make any difference whether an examiner is paid by the fee system or on a per diem basis. Changes of that nature do not affect the force, except temporarily.

3. I think the assessment should be based on capital and gross assets, not capital alone.

4. It may be desirable to have a force of assistant examiners, but should think unfavorably of restricting the Comptroller to select his force of examiners from these assistants.

5. I think the Comptroller's office could answer this question better than banks like ourselves, who have had no experience.

6. I think the law is good one, but of course the Comptroller should be in a position to prevent its abuse. The Comptroller should have the authority to take action when, in his judgment, loans are being

made in excess of the limit indicated by prudence and safety. It will, however, be useless to attempt to curb banks which abuse this privilege, unless you have examiners who are something more than mere office clerks. I think the Comptroller's office can give you a better idea of what laws would be best to prevent these excessive loans and the penalty which would make the law obeyed.

7. We have not had the experience to make any suggestion regarding the impairment of capital stock.

8. I think it would be contrary to good business policy to prevent the officers and directors of a bank from being among its borrowers. A simple law which would require all loans to directors or officers to be approved by a majority of the board of directors would be sufficient. If your officers and directors are rascals no law will prevent their wrecking a bank.

9. Yes.

10. I personally feel that the day will come when trust companies will be restricted to a trust business, savings banks to a savings-bank business, national banks to a commercial banking business. Any allied banking institution existing in the same banking room should be subjected to simultaneous examinations and comparison of notes between the two examiners. It would be very easy to make the above arrangement and could prevent the fraud which you say is occasionally practiced.

11. If the original bank report and duplicate are sent to the Comptroller's office to be retained by him, you simply force all respectable banks to make these reports out in triplicate, which I feel is an unnecessary burden. It might be well for the Comptroller's office to send back to the bank the duplicate, which should be made out in ink, O. K.'ed, and marked "Compared" by the Comptroller's office.

12. A published report of the liabilities of the officers and directors would be misunderstood in almost every community in the United States.

13. I do not think that the Comptroller nor his first deputy should be subject to civil-service regulations. They should be picked men from the many hundreds of competent officials eligible.

14. Yes, except that the law should not put it in the power of the Comptroller to harass a bank official for an unintentional error in his report. Different items in a report are made up from different departments in the bank, and sometimes contain errors.

15. Yes.

16. We have always promptly responded to the notification of the Government to make good our 5 per cent fund, and can see no reason why other banks should not be made to do the same.

17. I have never been able to understand why the present law was enacted limiting the amount of the notes of the denomination of \$5 which a bank may have outstanding to one-third of its total circulation. I consider the regulation of the denomination of its currency to be wholly within the province of the bank issuing the same.

18. I think it would be desirable to facilitate in every way the prompt liquidation of a failed bank.

19. We do not come in contact with the office of the Comptroller of the Currency except through its examining force, and the crying need is the appointment of national-bank examiners who are men of parts and have ability over and above that of an office clerk.

OCTOBER 9, 1908.

F. L. Lipman,

Vice-President Wells Fargo Nevada National Bank,

San Francisco:

Referring to your circular of September 26, asking for suggestions as to changes in the national banking laws:

1. On general principles we should prefer to see the tenure of bank examiners placed under civil-service regulations. We must add, however, that the individual examiners who have come under our own personal observation have been on the whole satisfactory, both as to character and qualifications.

2. We have no decided opinion as to the method of paying examiners. Generally speaking, we should prefer payment by the piece rather than a fixed salary.

3. Yes; we think the assessments made on the banks to pay examiners, etc., should be based on capital and gross assets, rather than on capital alone.

4. Decidedly yes; we strongly favor the appointment of assistant examiners.

5. We lay no stress on examiners furnishing surety bonds except when actually in the custody of banks.

6. We should delete from section 5200 Revised Statutes the words "and the discount of commercial or business paper." This would reduce the exception to the "Discount of bills of exchange, drawn in good faith against actually existing values," etc., an exception which must be made in order to handle the crops, etc. The discount of commercial or business paper, however, should properly come within the 10 per cent restriction, as it is fundamentally of the same character as any other loan.

The Comptroller should be given authority to take action when, in his judgment, "loans are being made in excess of the limit indicated by prudence and safety."

You say "Should directors and officers of banks be placed in a different category from general creditors in such cases?" We do not understand the question.

We should favor a reasonable penalty being provided for violation of such changes as may be recommended; but it should be applied at the discretion of the Comptroller, the object being to avoid the penalty, but to leave it in the hands of the Comptroller as a weapon with which to enforce obedience.

7. We should not favor any attempt to discriminate in favor of depositors during the three months specified, in which the bank's capital is impaired, with the knowledge of the Comptroller. Our point of view would be that, if the bank could not safely continue in business, it should be closed; that leniency should be shown by the Comptroller only where there was a reasonably definite certainty that the bank would be rehabilitated by its stockholders or otherwise.

8. From our point of view, no officer should be allowed to borrow from his bank. We realize, however, that our experience is principally with city conditions, where there are banks near by to whom an officer can apply if he has good security. It may be different in small country places. In such cases it would seem at least that such loans should be passed upon by the full board of directors, recorded

in the minutes, and fully secured by unquestioned collateral. A bank officer has no right to be dabbling in other lines of business where the bank would be warranted in extending to him anything like a commercial credit. We would decidedly distinguish between loans to officers and loans to directors. If directors and their enterprises could not borrow from their bank the bank would not be able to get the most efficient men in the community to act as its directors; and there are other reasons of a similar character. It might be prudent, however, for the line of credit granted to any director or to his enterprises to be passed upon by the full board of directors and recorded in the minutes.

9. There are doubtless cases where the holding of national-bank stock by other corporations would give opportunity for abuse. On the other hand, it is often desirable that a national bank's stock should be distributed among its customers, and they are apt to include corporations engaged in various activities. We are inclined to believe that it would be difficult to make a satisfactory restriction.

10. The operation of another banking institution in the same building is generally undesirable; but in country places it is often desirable to have both a national bank and a savings bank to handle the various transactions of the banks' clientele. The alternative is to attempt to work all kinds of financial matters through a national bank, with more or less dodging of legal restrictions. Would it not be possible to forbid the operation of another banking institution in the same building, except where the national-bank examiner is given visitatorial power over that other banking institution, so as to avoid the danger referred to in your circular?

11. We should think it well to require banks to make their reports to the Comptroller in duplicate, as suggested by you.

12. We should always make a distinction between loans to officers and loans to directors. (See paragraph 8, above.) We should not favor the publication separately of loans to directors. Loans to bank officers, when permitted, should be so thoroughly secured that there would be no point in segregating them in publishing the reports.

13. We do not feel qualified to express an opinion, but, in general, favor appointments under civil-service regulations.

14. It should also be a misdemeanor to make false reports to the Comptroller.

15. It would be well to provide by law, so that the liability of shareholders should fall on those who owned stock at the time the acts resulting in the insolvency were committed. However, this would seem hardly practicable. Where it could be shown that shareholders had transferred their stock with a view to escaping liability before an assignment was made, we believe they should be held liable.

16. Yes; the Treasurer should be authorized to enforce the law requiring prompt replenishment of the the 5 per cent fund, without resorting to the extreme measures now provided. The present method of enforcing promptness in the filing of statements with the Comptroller suggests a plan, viz: After allowing reasonable time for the replenishment of the 5 per cent fund, in accordance with the distance of the bank from Washington, charge for a delay a penalty of, say, one-fourth of 1 per cent per week or fraction thereof, minimum \$50.

17. In this locality monetary circulation is so largely in the form of coin that we do not suffer from a scarcity of small bills.

18. We do not think that the Government should advance any money to expedite the payment of depositors of liquidating banks. In our judgment, that would be a dangerous opening. Experience with the National Bank of Illinois and the Chicago National Bank suggests that with the increasing interrelations of banks, through clearing houses and otherwise, neighbor institutions may in future find it advantageous to the community and to themselves to take over sound assets for this purpose. It is, perhaps, unnecessary to provide any particular law to cover this. Where assets are not sound and are insufficient to pay in full, so that other banks in the same vicinity would be unwilling to touch them, we do not believe that anyone else, through any use of judgment, could determine a safe amount to advance.

19. We are not sufficiently posted on the conditions of the Comptroller's office to make suggestions.

In general, we desire to express our strong approval of this movement in the direction of better and more intelligent banking laws, restrictions, and methods, and shall be glad to be called upon for any service that we can render to this end.

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OCTOBER 12, 1908.

H. W. Stevens,  
President Hartford National Bank,  
Hartford, Conn.:

In reply to the questions in your circular of September 26, 1908, I would say—

1. I am inclined to the civil-service rules in the hope that a better grade of ability may be obtained than where appointments are left to political influence or "pull." I think an efficient examiner should be allowed to serve during good behavior, with absolutely no regard to his polities. I also think examiners should be moved about the country and not be confined to a special territory, as at present.

2. I think all the examiners should be on a salary basis, with reasonable allowance for expenses, and a stated vacation. They should be under expert instruction at Washington as to what they are expected to do and how they are to do it. If examiners are moved about so that they are kept out of ruts and free from local influences, they will check each other as to diligence and efficiency, and there should be no need to fear that more time than was necessary would be taken for examinations.

3. I do not believe in providing "a fund to pay examiners and other expenses." I think that examiners should be paid out of the United States Treasury, and that each bank should be assessed for the actual cost to the Treasury of its examination. I can not see why either "capital" or "gross assets" should be the basis of assessment, although the latter seems to me the fairer of the two. If you aim at efficient examinations you must allow time for them; therefore it is time that should be paid for and the bank receiving the benefit should pay the cost. If we are to have a national banking system worthy the name, it is up to the National Government to exercise a supervision that means business. It should act as a national audit

organization, select its employees with reference to their integrity and ability, pay them proper salaries, and reimburse itself for its expenditures from the banks it serves. The fact that so many banks to-day employ public accountants to audit their books is due to the present loose, inefficient, and unbusinesslike methods of national supervision.

4. Yes. There are comparatively few banks that do not need at least two good, live men to examine them properly. A good "assistant" should always be promoted when opportunity occurs.

5. No. If the Government can not trust its employees it should buy a bond of protection just as everybody else should do. It is neither fair nor wise, in my opinion, to ask anything more of the examiner as a guaranty of honesty than that he be actually honest.

6. The discounting of "commercial or business" paper should not be allowed in excess of the prescribed legal limit for single-name paper, except such paper has a definite financial responsibility entirely distinct and separate from the single name thus limited.

It should be the duty of examiners to inquire into this matter of responsibility and to report to the Comptroller, who in turn should report to boards of directors his conclusions. If the desired attention is not given by them, the Comptroller should be authorized to take action.

I think that officers and directors should not be placed in a different category from other creditors. If loans to the former are honestly and intelligently made they may be, and as a matter of fact often are, among the best investments of the bank, and to proscribe them would be, in my opinion, ill advised and unwise. Put the emphasis on supervision and provide the right kind of examiners. The Comptroller should have some means of enforcing his decisions short of extreme measures, but it is not easy to determine just what they should be. One good suggestion is to make directors and officers individually liable for any loss that may occur. I think that is better than a fine to the bank, because it reaches their pockets directly, whereas a fine touches them indirectly and remotely. In any and every event, whatever the penalty, it should be enforced directly against the individual members of the board of directors, and if they are not of sufficient financial responsibility to cover any possible loss the Comptroller should close the bank.

7. When the Comptroller finds that a bank's capital has been impaired, it is fair to presume that he has appraised the bank's assets at their true value and has concluded that some capital would be left even as the result of liquidation. The fact that he finds the capital merely "impaired" should be conclusive that the depositors are secure against loss, otherwise the bank should be closed. No decently managed bank could in three months time go to the bad sufficiently to endanger its depositors unless the Comptroller was decidedly off in his judgment. If that official be authorized to protect new deposits against his own mistakes, it should certainly not, in my opinion, be at the expense of old deposits.

8. No officer or employee should borrow of his bank except on good collateral. The same rule should apply to a director, unless he be in active business, in which event he should be treated as any other borrower would be treated. Intelligent and courageous supervision, or examination, of a bank's business can detect illegitimate loans.

I can see no reason why an officer of a bank should not borrow of his own bank if the bank has the money to lend and he has collateral satisfactory to the board of directors.

9. I think it would be most ill-advised and unwise to prohibit the holding of shares of national banks by other corporations. Why should a corporation be prohibited because of its anticipated bankruptcy any more than an individual? Oftentimes a corporation is, as a matter of fact, a much more reliable shareholder than an individual. In Hartford, for instance, our insurance companies probably control the ownership of the stock of the national banks, which is one reason why the latter are so strong. In any event, if the national banking law is going to scrutinize the ability of bank shareholders to respond to an assessment by the Comptroller, it should not, in my opinion, begin with the corporations.

There again is proper matter for the attention of bank examiners. Let them scrutinize the shareholders' list and report to the Comptroller the financial status of the large shareholders, individuals as well as corporations. If you have good, live men as examiners they can get in some good work there.

10. No. Let them both be examined at the same time. There are plenty of ways to avoid such mishaps. All that is needed is intelligence and common sense and efficient examiners.

11. I should think it would be better for the Comptroller's office itself to furnish a duplicate report to the examiner before he went to the bank. I never happened to hear of such a case as you mention, but the occurrence would of itself be enough to condemn the Government's methods. An examiner has no warrant to ask a bank for its report; he ought to know enough to apply to headquarters where he is sure the original is kept. To put such a provision as is suggested into the law would, in my opinion, simply advertise the inefficiency of the department of supervision.

12. I can see no harm, and possibly some good, from publishing the total amount of the direct and indirect liabilities of officers and directors. If the public is interested, they can look over the list of directors and decide whether they like the exhibit. I think, however, a distinction should be made between secured and unsecured liabilities.

13. Yes, if that would insure better ability and independence of political influences.

14. Yes.

15. Yes, if it can be proved that the transfer was made simply to avoid liability. A man, however, who sells his stock in the open market, on the strength of his suspicions, should be protected in the exercise of his own judgment.

16. Yes. The Treasurer should be empowered to draw upon the delinquent bank, and, if the draft is not honored upon demand at par, the bank ought to be closed, in my opinion.

17. Yes. Why should not a bank be allowed to take such denominations as it can use to the best advantage? The notes would stay in circulation longer, as a general thing, and the public be benefited as well as the bank.

18. Liquidation should of course be as rapid as possible. Any changes that can be made to that end without involving any guaranty on the part of the Government should be made.

19. I am not familiar with the organization of the Comptroller's office, and therefore am in no position to make any suggestions as to changes, and I fear that perhaps I have already written at greater length than you may like.

If anything should occur to me later, or if I can in any way be of service to you, it will give me pleasure to write you again.

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OCTOBER 9, 1908.

W. L. Weaver,  
Cashier First National Bank,  
Perry, Fla.:

Replying to your circular letter of the 26th ultimo, will say, in answer to No. 1, we think the method of appointing examiners should be made subject to civil-service rules and that it is desirable to apply civil-service regulations to the tenure in office of bank examiners.

2. We think it desirable to pay examiners a stated salary.

3. We think the assessments on the banks for the payment of examiners' fees should be based on the bank's capital and gross assets rather than on the capital alone.

4. Being in a small town and knowing very little of the necessities of the larger banks we will not venture an opinion.

5. We think it would be desirable for bank examiners to give bond for the protection of the Government and the bank when in charge of a failed institution.

6. We think that the amount of paper that can be discounted by any individual, firm, or corporation, should be limited to 10 per cent of the bank's capital and surplus, and that a penalty should be provided for such changes as may be recommended, enforceable against the officers or directors responsible for such violation.

7. We do not think that such depositors should be provided for any more than other depositors who are just as innocent of the condition of the bank.

8. We see no reason why an officer or a director should not be granted accommodations from the bank with which they are connected in accordance with their financial standing and the laws of the Government, but in no case should the person making the borrow be the judge of the advisability of the loan.

9. We believe that it would be a wise provision not to allow other corporations to own stock in a national bank except when taken in satisfaction of debts.

10. We believe that it would be a good idea to have a law preventing two separate banks from using the same banking rooms.

11. We think it would be a good idea to have reports to the Comptroller of the Currency issued in duplicate, and that one of these should be furnished the examiner by the Comptroller before examination of the bank in question.

12. In our judgment it would not be wise to publish the liabilities of officers and directors to the bank.

13. We think both deputies should be appointed by the Secretary of the Treasury, subject to civil-service regulations.

14. We think that the law in question should be extended so as to apply to reports made to the Comptroller of the Currency.

15. We believe that it would be a good law to enforce the liability against a shareholder who has foreseen the insolvency of the bank and transferred his stock to escape liability. The trouble in a case of this kind, however, would be to prove that shareholder's fore-knowledge of insolvency.

16. We think that this should be remedied, but do not have any plan in mind.

17. We have no trouble of the kind mentioned in this locality and are not in position to say as to the advisability of increasing the issuance of five-dollar notes.

18. We think it would be well to arrange for a more prompt payment of depositors in case of failed banks than we now have.

19. We have no suggestions to make.

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OCTOBER, 8, 1908.

H. L. Young,  
Cashier the First National Bank,  
Quitman, Ga.:

I am in receipt of your letter of September 26, and have noted same carefully, and beg to reply to your questions as numbered:

1. Section 5240, regarding the method of appointing national bank examiners: I see no reason why there should be any change in this.

2. Section 5240, regarding paying of examiners: In my opinion it would be better to put these on a salary and expenses, and make the salary sufficient to get competent men. I think this would induce the examiners to do more careful and conservative work, as they would not be in such a hurry to get through and to the next bank.

3. I think the assessments to pay the examiners should be based on capital, surplus, profits, and the gross assets, rather than the capital alone. I should think this the most equal and fair way.

4. I think it would be advisable to have assistants for the examiners in the large cities, and the assistants to fill vacancies occurring in these cities only. As the country examiners would have no assistants, appointments would be made as they are now to fill any vacancy that might occur.

5. Regarding bonds of examiners when placed in charge of failed banks, I think they should give corporate surety bonds of sufficient amount, the costs of bonds to be paid out of the assets of the bank.

6. I believe it wise and safest that a bank never loan more than 10 per cent of the capital and surplus to any one person, firm, or corporation, and I think the Comptroller should be given full authority to prevent it.

7. I think thirty days long enough to give directors to replace impaired capital. The condition of the bank could hardly get any worse during these thirty days, so the old depositors would not be any worse off. Therefore, it seems that the new depositors gained during this time should in some way be preferred creditors; that is, just ahead of the old depositors. As to the best way to get at this, I am not in a position to say.

8. I think officers and directors of the bank ought, by all means, enjoy the same privileges and accommodations extended to other customers. To prevent officers or directors from doing business with

their own bank would encourage capitalists to put their own money in other lines of business, and not in banking.

9. I see no reason why corporations should not own national-bank stock solely for the purpose of an investment. So far as double liability is concerned, there is no doubt that there are some stockholders in every bank from whom double liability could not be collected, and I don't think corporations as stockholders would be any more hazardous than individuals.

10. I think it all right for other banking institutions to be in the same building with a national association, but think they should have separate and distinct banking rooms and vaults.

11. It would not be a bad idea to have the banks make their reports in triplicate—one for their file, two for the Comptroller, one of which should go to the examiner before he makes the examination.

12. I see no reason why the liability of the officers and directors should be published either individually or collectively. The examiners can ascertain whether or not these liabilities are more than they should be, and should report it to the Comptroller, who has authority to have them reduced.

13. I am not in position to say how the deputy comptroller of the currency should be appointed.

14. The law should be extended to apply to the reports made to the Comptroller.

15. Where shareholders transfer their stock for the purpose of escaping liability, I think they should be held liable, the same as if the stock remained in their name.

16. I think the Treasurer should be authorized to enforce this law in some way without taking the extreme measures which are now provided. As to how this should be done, I could not suggest.

17. As to the denomination of the currency now in circulation, beg to say that down in this section of the country the five-dollar bills are often very scarce and hard to get, and I think it would be advisable to allow the banks to make at least half of their circulation in five-dollar bills, if they wished.

18. As to paying the depositors of failed banks, I think the examiner or receiver should, after careful investigation, arrive at about what could be realized on the assets; then after deducting the expenses from this, I believe it would be wise for the Government to pay the balance to the depositors out of the Treasury, and reimburse the Treasurer as the collections are made.

19. I have no suggestions to make relative to change in the organization of the Comptroller's office, except it seems that the examiners are nearly always from one to three months behind with their work. If this is because they are overworked, I think the Comptroller should add additional examiners.

This information is not very complete, but I hope it will be of some service to you.

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OCTOBER 27, 1908.

James B. Forgan,  
President the First National Bank,  
Chicago:

Your circular of 26th ultimo has, in the multiplicity of matters which I have had to attend to since returning from my three months'

trip abroad, been overlooked. I now answer your questions in order, as follows:

1. The political influence at present almost controlling the appointment of national bank examiners is a very bad feature in connection with the Comptroller's office as now administered, and should, in my judgment, be entirely eliminated. Such appointments should be strictly under civil service rules and the tenure of office of examiners should be subject to the same rules.

2. The compensation of examiners should, I think, be by salary, with proper allowance for traveling and other expenses incurred in making examinations. Such salary should be sufficient to attract competent men for the service. Under civil service rules, applicable alike to examiners and their assistants, and with promotion in the service regulated by recognition of ability and faithfulness, a body of competent experts willing to devote their lives to the service should be trained and fostered.

3. It would be more equitable to assess the banks on their gross assets rather than on capital to provide a fund for the payment of examinations. The amount of a bank's assets discloses the volume of its business more accurately than its capital does and it is the volume of business that should be taxed to pay for examinations as that is what determines the amount of labor involved in examining.

4. I have in my answer No. 2 already indicated my approval of providing a force of assistant examiners under civil-service rules with promotion and pay regulated by ability and faithfulness and vacancies to be filled from the ranks of the service. To do their work properly and effectively examiners should have a staff of assistants varying in number with the size of the business of the bank examined.

5. I think every one employed in the examining department should give a fidelity bond for a moderate amount, and this for the same reasons that employees of banks are required to give such bonds. The fact that such a bond is required would prevent those getting into the service whose record and habits are not such as to stand the investigation of a bonding company, and besides affording protection to the amount of the bond the mere requirement of it acts as a very considerable moral force and deterrent to evil doing. I have said a bond for a moderate amount should be required. Bonds for large amounts I would regard as unnecessary; probably \$5,000 to \$10,000 for assistants, regulated by the responsibility placed upon them, and \$10,000 to \$25,000 for examiners similarly regulated. Special bonds of larger amounts might be required in the case of an examiner acting as a temporary or permanent receiver for a failed bank.

6. In my experience I have not run across any cases where the discounting of bills of exchange drawn in good faith against actually existing values has ever caused any bank serious loss. My experience is that I have never been able to get enough of such paper. Of course if the paper classed as bills of exchange, drawn in good faith against actually existing values, is not bona fide, then I think the Comptroller of the Currency should be authorized to take action when in his judgment it is advisable to do so.

I hardly understand the meaning of the question "Should directors and officers of banks be placed in a different category from general creditors in such cases?" It seems to me that it is intended to ask if they "should be placed in a different category from general debtors

or borrowers," and if such is the meaning, I certainly think that bank officers should be placed in a different category from other borrowers because I can not conceive of bank officers having any legitimate bills of exchange drawn in good faith against actually existing values to offer for discount; but it is quite possible that directors might be able to supply their banks with the very best conceivable line of discounts of this kind, and I do not think they should be placed in any different category from other customers when offering such desirable paper for discount.

7. The only suggestion I could make would be to shorten the time within which a stock assessment can be made on the shareholders to provide for impairment of capital. It might be reduced to thirty days, instead of three months. A provision might also be made that if the capital is impaired to a certain percentage, say 50 per cent, the Comptroller might have authority to close the bank unless the directors and principal shareholders immediately furnish a bond guaranteeing that the impairment will be made good within thirty days. Section 11, of the proposed new Illinois banking law, a copy of which is hereto attached, is, I think, a good one covering this point.

8. The same proposed Illinois law, I think, goes as far as is necessary along this line. I do not think that there should be any distinction between directors of banks and other customers. As a rule directors are the leading business men in the community in which the bank is located, actively engaged in other lines of business, and are frequently selected for the business they can bring to the bank. More harm would be done to the banks by excluding them as borrowers than in continuing to permit them to be borrowers, the same as other customers. The Illinois law referred to reads as follows:

It shall not be lawful for any bank to loan to its president or to any of its vice-presidents, or its salaried officers or employees, or to corporations and firms controlled by them, or in the management of which any of them are actively engaged, until an application for such loan shall have been first approved both as to security and amount by the board of directors.

9. I have had no experience of the evil of national-bank stock being held by other corporations, but I should think it would be well to make it illegal for corporations formed by the same individuals as own the bank or in which the directors of the holding corporation and of the national bank are the same individuals to hold national-bank stock. I am doubtful, however, if it would be wise to entirely prohibit corporations from holding shares of national banks, as I can conceive of corporations being as legitimate and as desirable stockholders as a bank can have. The law should prohibit any number of individuals from carrying bank stocks in the name of a corporation with the evident purpose of relieving them individually of the double liability on the stock.

10. I would consider it very absurd to pass a law prohibiting the operation of another banking institution in the same building with a national association. I was cashier of the Northwestern National Bank of Minneapolis for a number of years. Our office was in the Guaranty Loan Building. We occupied half of the floor on one side of the entrance, while the Security Bank, a state institution, and one of our strongest and most active competitors, occupied similar space on the other side of the hall. I can not conceive of any reason

why such a condition of affairs should be prohibited by law. In the event of more than one bank doing business on the same premises and both banks being practically under the same management and control, he is not a very smart examiner if he allows securities owned by one to be used during examinations of the other; but to prevent such an occurrence the law might provide that the national-bank examiner be authorized to examine the securities of both banks simultaneously to see that there is no collusion between them.

11. I can see no objections to the Comptroller requiring bank reports to be made in duplicate, or he can have copies of the reports made in his office and sent to the examiners for comparison at the next examination.

12. I do not quite grasp the meaning of this question, but I do not think there is any occasion for interfering with the present manner of reporting the direct and indirect liabilities of officers and directors.

13. I think the Comptroller's deputies should be appointed by the Secretary of the Treasury as a result of civil-service examinations, and should be subject to civil-service regulations.

14. I certainly think that the law should be extended to apply to false reports made to the Comptroller.

15. I think the law should be so changed as to make it possible to enforce the liability of shareholders who have foreseen the insolvency of a bank in which they own stock and have transferred that stock to escape liability before an assignment is made.

16. I would suggest that the law should provide that where banks fail to promptly reimburse the Treasury for the redemption of their circulation that they be placed in exactly the same position that they would be if they should refuse to redeem their notes at their counters; in which case, as I understand the present law, the Comptroller has the right to appoint a receiver. The law might provide that the Treasurer should notify the Comptroller in the case of such delinquent banks, and that he, on receiving such notice, should serve notice on such banks that if the amount due be not remitted within a given time (say, one week, or ten days, or even two weeks, in cases where the location of the bank is a long distance from Washington) a receiver would be appointed by him.

17. I think it would be well to leave it to each bank to decide as to the denomination of its note issue. I think very likely the small banks in the country would take nearly their entire issue in the denomination of \$5, while the city banks would probably want the larger denominations. I think if it is left to the banks to regulate this themselves it would work out satisfactorily.

18. It might be provided that the receivers of liquidating banks, with the concurrence of the Comptroller, might borrow as much as they can by pledging the assets of the banks with any bank or banks without recourse on them as receivers. I do not think it would be desirable that the receivers should be authorized to give notes in the ordinary way, pledging the assets as collateral therefor, but I see no reason why they should not raise all the money they can on the assets by pledging them to other banks in order to raise money on them to liquidate the banks more quickly.

I would suggest that your committee should not attempt to regulate the management of banks by law. Very often laws passed for the purpose of regulating or preventing one evil will produce unthought-

of conditions which greatly retard the development of the banks and of banking interests along perfectly legitimate lines. For instance, there can be no doubt that in some instances the loaning of a bank's funds to its directors or to concerns in which its directors are interested is greatly abused. As a rule, however, the very best directors a bank can have are men actively engaged in business and connected with the leading commercial and manufacturing industries in their communities; the men who practically control the business of the community in which they live and influence it to the banks with which they are connected. Their close touch with business affairs makes them the best judges of credit in the community, and unless they are placed on the directorates of the banks the much-to-be-dreaded "dummy" directors are inevitable. If the banks are prohibited from loaning to such directors or to the concerns in which they are interested, the inevitable result will be that "dummies" will be put on the boards in their places to do their bidding; and the last condition of banking under such a law would be infinitely worse than the first. There are other evils, the technical correction of which by legal enactment would produce similarly bad results.

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OCTOBER 14, 1908.

O. P. Bourland,  
President National Bank of Pontiac,  
Pontiac, Ill.:

Your circular of September 26 received. In reply thereto I would say that I do not feel fully competent in all cases, without more investigation than opportunity has been afforded to me, to make proper reply, but so far as my experience in conducting a country bank for thirty-four years will serve, I offer without hesitation the following conclusions:

As to inquiry 1, I believe that civil-service examination and regulations should govern the appointment of bank examiners. I will add that I think the national banking system has suffered greatly owing to the indiscriminate appointment of bank examiners appointed for other reasons than that of personal efficiency and experience as bank experts.

2. I favor the salary plan of compensation to bank examiners.

3. I think banks should pay proportionate to their capital and surplus, as surplus becomes capital to all intents and purposes as soon as permanently lodged as an asset of the bank.

4. I am unable to reply to this competently, and have no doubt that your commission will have better light on that subject than I can obtain here.

5. Unless the bond of the bank examiner is sufficient to cover his responsibility as receiver, I should say that he should be treated on a par with any other receiver and be called upon for the same bond protection to the United States as depositors and creditors would be entitled to if the United States were not acting as intermediary.

6. I believe there should be some limit placed to the amount of commercial paper, paper known as trade paper, and such other paper as is given for actual values or commodities, discounted for the benefit of one firm and indorsed by them. I do not think the limit should be as narrow as that placed upon loans made direct. As to what the

limit should be, I do not feel qualified to say. I think there should be a larger latitude of discount upon drafts or notes drawn upon consignees with bills of lading attached, especially where the goods consist of staple articles, such as grain, cotton, coal, or staple manufactures. Of course, your commission will decide that no limit whatever should be placed upon such discounts, and I doubt if any fixed limit can be equitably imposed.

Referring again to the third inquiry under section 6, I will say that the Comptroller should certainly have authority to discriminate as to whether a reasonable limit of discount of trade paper or commercial paper, so called, has been passed or not. I think that directors and officers of banks should be classed secondary to outside creditors of a failed institution, where outside creditors have had no opportunity to know of the inadvisable, immoral course pursued which may have led to the final disaster.

As to your last inquiry, under No. 6, I think that officers and directors should be personally responsible where the evidence is clear that they might have avoided or lessened the loss to depositors by a careful attention to their duty as such officers or directors.

7. Certainly something should be done to safeguard depositors who are assuming undue hazard after the Comptroller has become officially aware of the depository institution. I do not feel competent to offer any valuable suggestion as to how this can be brought about.

8. I am opposed to the borrowing of funds at all, directly or indirectly, by the active officers of a bank.

I think directors should be discriminated against, first, by making them lodge with the bank definite collateral security for every dollar borrowed directly or indirectly. Second, their fellow-directors should be more directly responsible for obligations incurred by their colleagues than for other obligations approved by them and assumed by the bank.

As a general principle, I am opposed to the borrowing of money by either directors or officers, from the bank under their management.

9. I hardly believe that there would be a sufficient number of instances of the character cited to make it necessary to change the present national banking law, and as to the second section of that question, I do not think that it would be possible to make effective a law discriminating as to who are competent holders of national-bank stocks other than national banks. I think your committee will agree that such an effort would be unconstitutional.

10. I think that the confusion arising from the location of two institutions in the same building should be easily avoided by a coincidence of examinations and by other means which the ingenuity of the banking department could easily devise.

I heartily agree with the suggestion made in inquiry No. 11 as to the furnishing of bank reports in duplicate.

12. It certainly would do no harm to publish the individual and collective liability of officers and directors, but such a conclusion can be easily ascertained from the form of report now used.

13. I heartily concur with the suggestion made that deputy comptrollers be appointed only after civil-service examinations, etc.

14. I think the national banking law should be amended at an early day, including the Comptroller of the Currency as the party to

whom reports should be made, and the falsification thereof a misdemeanor.

15. I do not think any stockholder should be relieved from liability of assessment upon stock conveyed previous to a failure, if it can be established that the stockholder had knowledge of the imminence of such failure, and concerning whom the proof is clear that such conveyance was made to avoid liability from pending disaster known to him.

16. I realize the importance of a remedy, but in the little time allowed to me, I am unable to offer any valuable suggestion.

17. I think that the limit of \$5 notes should be at least one-half of the circulation, if so desired by the issuing bank.

18. I will heartily approve of any sensible measure that can be devised to expedite the early payment of dividends to depositors and creditors of failed banks, even to the extent of allowing the receiver in charge to discount the quickest assets, or to sell the same, when such sale or discount is approved by the Comptroller of the Currency after a full submission of the facts by the receiver.

19. I am not inclined to make any suggestions at present with regard to the changes in the organization of the Comptroller's office.

Asking your pardon for so prolonged a reply, I will ask further indulgence to the extent of being allowed to say that I regard the present system of bank examinations as a very flimsy and farcical affair. Of course the question of expense enters vitally into it, but unless it can be thoroughly done it had better not be done at all. I think the examiner should never leave the institution examined until he has ascertained all the real, substantial, and material value of the assets of the institution from information derived from sources not as clearly and wholly partial as the officers themselves. The bank examiner should be permitted not only to call in directors but stockholders, and to appeal to any other sources of information, assuming that he will not proceed in any way to disclose the confidential relations existing between the bank and its customers or that he will not be indiscriminate and reckless in his method of procedure whereby he originates or aggravates an alarmed condition of mind in the community where the examined bank is located.

Until these repairs are effected we can not blame the people for advocating postal savings banks, government guarantees, or any other safeguard that is presented to them as a possibility whereby they are guaranteed with better and more continuous security.

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OCTOBER 23, 1908.

C. H. Church,  
Cashier Delaware County National Bank,  
Muncie, Ind.:

Referring to your circular letter of September 26, I herewith inclose a reply to each inquiry, and also submit a pamphlet containing suggestions for amendments to the national-bank act, which may be of service in working out some practical plan.

It is important that any proposed legislation be along lines that all banks can easily participate in, regardless of location, and while our

present act has served admirably for nearly half a century, we have arrived at a period when the people demand, and our bankers should unite in demanding, that our monetary system be so modified and surrounded with such safeguards that we can rightfully expect equal service to this nation during the remainder of the present century.

Will certainly be pleased to cooperate in your efforts, whenever desired.

1. It's likely bank examiners would be more efficient should they have acquired experience by actual management of the business, and when found competent be continued until disabled by infirmities. Apply civil-service regulations if necessary to avoid political changes.

2. A salary basis is far preferable—sufficient to preclude other employment.

3. Assessment on gross assets would be equitable. Possibly the semiannual tax on circulation, as now collected, is ample to provide for the expense of examinations.

4. Yes, very desirable.

5. As receivers it would be proper to require a reasonable surety bond.

6. Evidently the intent of this section was to facilitate the operations of extensive bills of exchange and commercial bills depending on existing values in process to cover same, and should be confined to such construction without limitation, with limit on paper outside of this class to the present regulation.

Comptroller to take action in cases whenever persisted in, and personal liability of loans to be enforceable against such officers and directors as are responsible for the existing conditions—that is, for continued violation after warning.

7. Impossible to prefer one depositor over another by any arrangement, without prejudice and possibly injustice. No protection can be provided depositors except by the stockholders, with capital, surplus, and double liability, unless they provide insurance or guaranty in addition.

8. No discrimination can, in justice, be made as to loans to officers, directors, or employees, as it is natural and proper to borrow from their own bank. If there were limitations, difficulty would arise in obtaining the proper officers and directors, and they ought to be customers of their own bank, both in depositing and borrowing. Any prohibition is an injustice and a reflection.

9. Corporations should be entitled to acquire ownership same as individuals, as an investment, and in many instances it provides advantageously for their surplus means. The same objections apply in many cases to individual owners of stock, where the double liability is not enforceable.

10. Doubtful if the prohibition is necessary, as cooperation by examiners of each institution would be effective, either by comparison or by examination of both on same date.

11. Report of condition made in duplicate to the Comptroller would be proper, and not considered onerous.

12. Unwise to give publicity of liability of any bank customer, either officer or director, individually or collectively. Directors are often active business men, selected for their ability and knowledge of

general business affairs in their community, and it would be unfair for their competitors to have information which at times could be used detrimentally.

13. It seems more proper that the Secretary of the Treasury make this appointment under civil-service rules.

14. Yes; include any and all false reports.

15. It is difficult to determine the shareholder's foresight as to insolvency of his bank, as it is in evidence. Banks have been insolvent several years without the shareholder's or the public's knowledge.

16. This should be amended, giving authority to the Treasurer that after due notice he may proceed to sell at market rates bonds sufficient to reimburse the Treasury, and also to provide a 5 per cent fund, as required by law, on the outstanding circulation, resorting again to this process whenever necessary to maintain the 5 per cent fund. The Treasurer can only become a creditor of the bank by redemption of circulation, and when reimbursement is refused can only apply the proceeds of his collateral to liquidate the debt.

17. Desirable to increase the limit; optional with requirements of each bank.

18. Provision should be made in cases of failed banks to pay depositors at once approximately 50 per cent of the estimate that will eventually be paid.

19. Provision for a deputy comptroller in each State as chief examiner, who may select and recommend assistants to be approved by the Comptroller of the Currency, the assistants to be eligible to fill vacancies; also avoid rotation in examinations, on the principle that familiarity with any bank's loans and business methods is desirable.

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OCTOBER 3, 1908.

J. C. Jordan,  
Vice-President Iowa National Bank,  
Ottumwa, Iowa:

Answering your questions in their order:

1. In my opinion examiners should be appointed subject to civil-service rules and think it desirable that civil-service regulations should apply to their tenure of office.

2. Think good results would follow a per diem basis, but there ought to be a maximum charge fixed, based on capital and surplus.

3. Capital and gross assets by all means.

4. Think examiners should be promoted or appointed from every source that would secure good and experienced men.

5. In the absence of the Government being responsible for the acts of its own servants, a bond should be furnished for the protection of the bank's creditors.

6. Can suggest but one safe proposition—to do away with the abuse of section 5200, namely, confine the obligations of any one concern, both direct and indirect, to 10 per cent of the capital and surplus of the bank and treat indorsement of commercial paper as an indirect obligation.

7. Think such depositors as you describe should be treated as preferred creditors in the event of a failure.

8. Think all loans to directors and officers should be approved in advance by the board of directors and that the borrower should not be present at such meeting; would not make any difference between directors and officers; think officers should be permitted to borrow from his own bank under the above restrictions.

9. No; do not think it wise to provide by law against the holding of shares of a national bank by any other corporation. The possibility of annulling the double liability would hold just as true with the individual as with the corporation.

10. I regard the savings department incorporating under the state law as very desirable to operate in the same building with the national association. Do not think any legislation is needed, but would advise that joint examination be made whenever it is possible to do so, and when it is found impossible for joint examinations to be made the national bank examiner should be clothed with the authority to make such examination of the associate bank as to give him a correct knowledge of the actual condition of the allied corporation. Compensation of course should be allowed for such extra service.

11. Reports should be made in duplicate, or a copy of the report filed with the Comptroller of the Currency should be sent to the examiner to verify in his examination.

12. Can see no advantage in publication.

13. Would recommend that both be appointed by the Secretary of the Treasury as a result of civil-service examination.

14. Without question the law should apply to the Comptroller.

16. The Treasurer certainly should be authorized to in some way enforce the law in regard to the 5-per cent deposits for circulation. I would suggest as a remedy that a fine be attached for a bank remaining in violation of this law after a certain period and that the Secretary of the Treasury serve notice on each member of the board of directors; that in the absence of them causing the shortage to be made good within a certain time that the penalty would be enforced and the charter surrendered.

17. In my opinion some kind of relief ought to be given to give us a larger volume of small bills.

18. It certainly would be a great blessing if some arrangement could be made by which depositors could secure dividends at the earliest possible hour after same had accumulated from liquidated banks. There is no doubt but what there is a great deal of misery caused from liquidating banks failing to give relief within a reasonable period.

19. I have one suggestion to make to improve the service of the Comptroller's office and that is, that some method be employed to keep a closer abstract on all national banks so that it will not be necessary for an officer of a bank to make an explanation as a result of every call of the Comptroller covering the same item shown on the several statements of the bank. Under the present system the Comptroller's office does not seem to go back further than the statement received in response to their last call.

One other suggestion. I am satisfied it would strengthen the work of national bank examinations if the directors of every national bank were required by the Comptroller of the Currency to certify over their signatures that they had made an examination of all notes,

bonds, and securities of every description in the bank and that the same was found to be genuine and legal obligations of the makers. This I not only believe would prevent forgery, but would also go a long way in ferreting out any questionable securities which had found lodgment in the bank.

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OCTOBER 5, 1908.

Ackley Hubbard,  
President the First National Bank,  
Sioux City, Iowa:

I have your circular letter of September 26 relative to changes in national banking laws. I have carefully examined same and will take up each change suggested, under the number that you give it in this circular.

1. I am very much in favor of bank examiners being made subject to civil service rules and think the rule should also apply to the tenure of office. The examination, of course, should embrace a fair knowledge of banking as this would add greatly to the competency of the examiners.

2. I think bank examiners should receive a stipulated salary for their services and an allowance for expenses which should be made to cover the actual expenses only.

3. In making an assessment on the banks to pay costs of examination, I think the assessment should be based on the capital, surplus, and undivided profits of the bank as shown by their last official statement preceding the date of the assessment.

4. I am greatly in favor of this suggestion.

5. So long as other officers of the Government charged with the collection and disbursement of funds are required to give bonds, the same rule should be extended to bank examiners when acting as temporary receivers of banks.

6. It is difficult to legislate good sense or discretion into bank managers who are already lacking in these respects, and in order to make the banking business what it should be, bank managers should be allowed considerable latitude in the matter of loans. I would not think it well to put any particular definite limit on the amount of commercial paper or bills of exchange that a bank might purchase, but would leave that to the discretion of the bank managers, subject to review by the Comptroller of the Currency, who should have authority to call a halt whenever, in his judgment, the amount of the paper so purchased of any one concern is in excess of what the bank reasonably ought to carry. I do not think that the officers of a bank who are active in its management should be permitted to borrow the funds of the bank for any purpose. This rule, however, should not apply to the directors, who should be placed in the same category as general creditors of the bank. I think in all instances penalty should be provided for violation of any legal requirement as to the regulation of banks, to be enforced against the party who violates the requirement.

7. I do not see how it would be possible to protect depositors of a bank where time had been given to make good an impairment of capital and the stockholders failed to make the capital good and the

bank was forced into liquidation. I know of no reason why three months' time should be given the stockholders to make good an impairment of capital. They should be required to make it good immediately upon the discovery of the impairment. It can be done at that time just as well as three months later.

8. I would suggest that the active managing officers of a bank be absolutely prohibited from borrowing funds from the bank. I would not have this prohibition extend to directors, as it would force out of the banks many good men who are now directors and who borrow of the banks. I would, however, require directors to give the same security that is required of other customers of the bank and in the matter of borrowing treat them just the same as other customers of the bank. Employees of the bank as a rule should not be borrowers from the bank where they are employed.

9. The prohibition that national banks shall not purchase or invest in the shares of stock of other corporations is wise and wholesome. I would think, however, that it would be unwise to attempt to provide against the holding of shares of national banks by other corporations. There are some other corporations that should not hold national bank stock and that might be injured thereby, but these corporations are generally state corporations, and if there is likely to be any trouble accruing to them by reason of the purchase of national bank stock the State creating the corporation should provide against it.

10. I do not see any objection to the operation of another banking institution in the same building with a national association provided they are both under the same management practically, and the stockholders in the two are practically identical. It often happens that the officers and stockholders in a national bank organize a state savings bank to be run in connection with the national bank and to take care of such business as it is not profitable or expedient for the national bank to take on. This often works to the advantage of both institutions. There should be a requirement, however, whenever another institution is run in the same room with a national bank that it be subject to examination by the national bank examiner at the same time that he examines the national bank. There are quite a number of such institutions in this State, organized under state law and run in connection with national banks. For the last two or three years it has been quite the custom for the state bank examiners and national bank examiners to make their examinations at the same time. When this is not practicable the national bank examiner should have authority to examine the associate institution at the time he is examining the national bank, and if this were done no danger would arise from shifting funds or securities. It is a great convenience to a national bank to have an associate institution to take care of certain lines that it can not very well handle, and I would not object to this association, but do think it is a source of danger unless the national bank examiner can examine the associate institution at the time he examines the national bank.

11. It has been my practice to have bank reports made out in duplicate, both copies sworn to by the cashier of the bank and both signed by the directors of the bank, one copy to remain with the bank and

the other to be sent to the Comptroller. It would, of course, be possible to make these two reports different and get the directors to unwittingly sign a false report to be kept at the bank, but I think the chances of this are rather remote, as directors are getting more careful about these things and looking more thoroughly into the condition of the banks they represent. There would be no harm in having reports made in triplicate, two copies to be sent to the Comptroller, one for his office and one for the bank examiner.

12. I do not think it would be wise in the published report of the condition of a bank to show the liability of officers and directors. I do not think that officers should borrow at all from the bank, but do think that directors who are good business men and engaged in other lines of business should borrow from their bank just as freely as other business men should; and no matter how carefully a bank is run in this respect or how good the loans of the directors were as to security, etc., if the published report showed that any money was loaned to the directors it could be easily used to the disadvantage of the bank by rival institutions and by others who are unfriendly to the bank.

13. I would prefer to see all appointments of deputies, examiners, etc., subject to civil-service regulations.

14. Yes; the law should be extended to apply to false reports made to a Comptroller or false reports made to anyone else.

15. I doubt if such provision as suggested herein would be wise. I believe in as few restrictions as possible on trade, and every man should be allowed to buy or sell anything he has at any time he sees fit.

16. Certainly the Treasurer should have authority to compel the banks to keep their redemption fund good, if he does not have that authority already.

17. I can see no object in having any limit placed by law on the amount of \$5 notes which a bank may have outstanding. This is a matter that I think the demands of business would regulate sufficiently without any statute on the subject.

18. I think the whole method of procedure at present in vogue for liquidating failed banks should be revised. At present it is too cumbersome, slow, and expensive. Receivers for failed banks should be men of good banking ability, and they should be encouraged to liquidate and close up the trust as rapidly as possible. As managed at present the delays and expense of liquidating a bank are very annoying and very expensive. The expense and delay frequently results indirectly in large losses to depositors, stockholders, and the public at large on account of the tying up of large sums of money that should be available for the business needs of the community.

19. I am not sufficiently posted as to the present organization of the Comptroller's office to be competent to suggest any changes.

As you well say, there are a number of other changes that might be suggested, and possibly any managing bank officer might make suggestions of value to the committee, but you have a large and able committee studying this object and they are or should be in close touch with the bankers in the largest cities and can undoubtedly obtain from them better suggestions than I can make.

OCTOBER 5, 1908.

William Docking,  
Cashier the People's National Bank,  
Clay Center, Kans.:

In reply to your circular of the 26th ultimo, asking for suggestions regarding changes in the national banking laws, we reply to your questions in detail:

1. The examiners should be appointed as at present and not made subject to civil-service rules. Under civil service it is difficult to get rid of poor men, or men of very medium ability, and the force of examiners under such a system would not be as good as at present.

2. The examiners should be on salary to take away all inducement to slight the work, and the banks of course assessed on a capital and asset basis to pay the expenses.

3. The assessment should be based on capital and gross assets. The work of examining many banks of \$100,000 capital is greater than where the capital is \$200,000.

4. It would be desirable to have a force of assistant examiners for work on big banks and to recruit the examiners from them.

5. Examiners as receivers should give bond the same as is required of any other receiver.

6. A bank can not be made safe and well managed automatically by law. It would be difficult to fix an arbitrary limit for the discount of paper. The Comptroller of the Currency should be given much discretionary power to check bad methods that can not be covered in detail by law, and where an arbitrary law would often do more harm than good. The discount of paper for one concern through a lot of subsidiary companies needs special care on the part of the examiners, and it rests on them to see that these discounts represent real value and real transactions. The question of prudence and safety can not be fully covered by law. Much must be left to the Comptroller.

Officers should not be permitted to borrow from or discount with their own banks—that is, active officers actually engaged in the business of the bank. It would be a great mistake to apply this rule to directors, as it would disqualify the best material from which boards are made up and result in directors of no experience and little knowledge of business.

7. This depends entirely on the extent of the impairment. If this is sufficient to make the bank insolvent, the bank should be taken charge of at once and no time allowed to make the impairment good. If the amount is 10 or 20 per cent, we do not see that depositors are in any danger for the ninety days allowed to make good, and no protection is needed. In the case of losses amounting to insolvency, unless the bank is at once put on its feet by new capital it should cease to do business.

8. Officers actively engaged in the work of the bank should not be permitted to borrow at all or to rediscount. Inactive officers and directors as customers of the bank should be on the same footing as any other customers. There is no reason for any difference being made. There would be more reason to make a law that active officers should not loan to relatives. No law will make a good bank, and provisions of law must be general.

9. We do not think that corporations should be prevented from holding stock in national banks, and the argument that sometimes by being held by corporations in which the directors of the corporation were also directors of the bank the stockholders' liability was annulled by the failure of the bank and the corporation, would apply just as fully to stockholders who have practically all they have invested in the stock of the bank that fails; and to properly safeguard the matter there would have to be a law providing that all stockholders in national banks must at all times have a sufficient amount of property in addition from which to provide for the stockholders' liability, and when this property falls below the required amount he must sell his stock down to preserve the ratio.

10. The operation of another banking institution in the same building with a national bank should be absolutely prohibited, as the operations of the two are in most cases involved, and there are dangers of considerable importance in connecting two institutions in this way.

11. All reports should be made in duplicate and both copies sworn to, but we would permit the bank to keep the duplicate report and have the office of the Comptroller furnish to the examiners copies of the reports sent in by the banks. It has always been our custom to make these reports in duplicate and keep the duplicate filed in the bank.

12. We do not see anything to gain from the publishing the total liabilities of officers and directors. Such publication would be used by banks whose officers and directors are not borrowers to throw discredit on the bank whose officers and directors are, and we see no good whatever to be obtained. Either treat such loans on their merits or prohibit them entirely. The only question with such loans is whether they are safe or not, and in this they are like all loans.

13. We think both deputy comptrollers should be appointed by the Secretary of the Treasury, but see no good in making them subject to civil-service rules. It is true there is often too much politics and too little regard to fitness in appointments, but the civil-service method often leaves incompetent men in that could be replaced with better.

14. The law should most certainly extend to false reports to the Comptroller.

15. Yes, but as this would be a matter of proof, we think the liability in all cases should be perhaps made to continue for a certain definite time after the transfer.

16. Would enforce by providing a fine for failure to reimburse the Treasury within a specified time, leaving this time long enough to enable banks a long distance away to make remittance without inconvenience.

17. Yes. The amount of five-dollar notes should be increased to at least half.

18. Yes. Liquidation should be made more speedy, and if the law was amended to provide for a final closing of the affairs of a failed bank within one year the depositors would receive in most cases more than they are in the habit of getting. We know of several small state banks liquidated very satisfactorily in three months. The time suggested may, of course, in many cases be too short, but receiverships

should not be permitted to drag along to provide positions for receivers and attorneys, and the waste as a rule more than overcomes any additional amount realized from the assets. It is our opinion that good assets should be sold and the proceeds paid to the depositors as rapidly as possible.

19. No. Country banks should be permitted to loan in part on real estate. A ruling of the department is that loans in part on a real-estate mortgage as collateral is beyond the law. It is almost impossible for a bank in a farming community where there are no manufacturing or other interests to absorb loanable funds to avoid entirely all connection with real estate. As it stands at present the country national bank may buy commercial paper in centers, about which it is difficult for the officers to know much, but must turn down the farm mortgage offered at its counter, than which there is no safer investment, and experience has shown none much more available. We would permit a national bank to carry 25 per cent of its loans in real-estate mortgages, making it, however, report to the Comptroller in considerable detail on these loans. It is possible this provision should not apply to banks in reserve cities, and it might be better to allow only farm loans. The vast number of the national banks are in rural communities, and many of them have organized small state banks to take care of real-estate loans and enable them to get the funds out at home instead of their choicest securities going to the centers to the life insurance companies, and the banks in turn being compelled to go to the centers and buy unsecured notes.

We would provide by law for an executive committee of about three directors, whose duty it should be to meet at least monthly and make detailed examinations. We would make it the especial duty of this committee to keep thoroughly posted on the bank, and it should also be their duty to meet with the national-bank examiner and supplement his technical knowledge with their local knowledge. If this was done, there would be no insolvent banks, with proper work on the part of the examiner, as a bank would be compelled to make good an impairment of capital or liquidate before it reached the point of insolvency. The trouble is that the examiner can tell nothing, as a rule, about the assets of the ordinary bank away from the centers. The executive committee should be in no way connected with the officers and should make its reports to the full board. The main work of the committee would be with the examiner. The members of the committee should rank as active officers in the provisions relating to borrowing from the bank.

It is not possible for law to make a good bank, but we think it is entirely possible to almost entirely do away with danger of loss to depositors.

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OCTOBER 5, 1908.

J. T. Wettack,  
President the First National Bank,  
Coffeyville, Kans.:

Your letter under date September 26, asking a number of questions concerning national banks, received.

1. I think that the present methods of appointing examiners satisfactory, and immaterial whether change is made or not. Not necessary

to place examiners under civil service rules. The present method of paying examiners is all right; no change needed.

If change is made and they are paid salaries, the tax to meet salaries should be assessed according to resources of banks.

2. I think that assistant examiners should be provided for, and in the future when vacancies occur they should be appointed.

5. Not important that examiners as receivers should be put under bond.

6. Section 5200: This is an important topic, hard to solve, not to cripple business and yet be within the bounds of safety.

If losses have occurred on account of the exceptions in this section I should advise that neither commercial paper nor bills of exchange should be over the limit allowed for loans.

The Comptroller should be directed to take action without delay when excessive loans are made or bills of exchange in large amounts discounted in excess of lawful maximum limit.

Officers and directors should not be placed in a different category from other creditors.

A penalty should be provided for violation of section 5200 against all officers and directors who sanction violation of this section.

7. Not sufficient knowledge to render opinion.

8. Make no difference between officers and directors in borrowing money from the bank. Make it a law that no director or officer shall borrow from the bank unless two-thirds of the directors in writing spread on the minutes of the bank that the loan was considered by them and that they approve the loan and have each director sign the statement on the minute book, and provide that any loan made without this prerequisite shall be a crime and punishable by heavy fine.

9 and 10. Not sufficiently informed to render an opinion.

11. I would suggest that all reports be made in duplicate, one for the Comptroller and the other for the examiner.

12. Under section 5211: I do not think that the liabilities of directors should be published collectively or otherwise, as they should be treated like other borrowers and creditors. If this publication should be required, you might just as well provide that no officer or director shall borrow money from the bank of which he is an officer.

13. Should not be subject to civil service rules; no need for it.

14. Certainly all reports made to the Comptroller that are false should be criminal and punished.

15. In my opinion the sale of stock should provide that both seller and buyer should be liable for any assessment made by the Comptroller for one year after the date of transfer of the stock and sale of same. This would guard against placing stock in the hands of insolvent buyers and protect the bank.

16. Not sufficiently advised to render an opinion and do not regard the matter of much importance.

17. Not advised on this point to render an opinion.

18. I think that a fund ought to be created to pay the depositors promptly in any suspended bank, and that the fund ought to be created out of the circulation tax paid by banks.

19. No suggestions to make relative to changes in Comptroller's office.

First. I would suggest that all examinations of banks be made in the presence of all or some of the directors, not officers, of the bank.

I think that this would have a most salutary effect on the officers and would call the attention of the directors to things that may never have been called to their attention, or if called to their attention, overlooked or forgotten.

So many of the directors of banks are so incompetent and ignorant as to the law and the manner of examining into the affairs of a bank that meeting the examiner and seeing how he makes examinations would be an object lesson to the directors that would be of much benefit to them and enable them to look into the affairs of the bank of which they now know nothing. It would make them independent of the officers, and could look into all its affairs without aid.

I think that for competent and honest officers the provision of the law and the manner of its execution are ample and sufficient.

I have been in the banking business for twenty-eight years, both as a national banker and a state banker, and I think that the provision that a national bank shall not make loans on real estate is not only silly but a hindrance to secure loans. Any borrower with good and plenty real estate has good credit and can borrow all the money that he may need without giving real-estate mortgage, but his less fortunate fellow being who has little personal property and not much real estate is barred from getting accommodations unless he can charge his real estate with and by a mortgage.

Not a state banking law is known to me that prohibits loans on real estate. I have never known bad results from state banks making loans on real estate. We bank in the same community, we have the same class of borrowers, we carry on our business in the same way, and a national bank ought to be allowed to loan money on real estate just the same as a state bank. Losses often could be guarded against if it was not for this unwise provision of the law.

I tell you now that the state bank law of Kansas, which allows banks to make loans on real estate and its other provisions, makes it a superior law to the national law, and I would suggest to you to look up this law and incorporate some of its good provisions in the national banking law, including the right to loan money on real estate.

I would make a further suggestion that every bank in reserve cities should have at least \$100,000 of capital for each \$1,000,000 of deposits, and when these figures are reached that they should not be allowed to increase their deposits.

The city banks make nearly all the trouble and they should be required to hold more money of their own to proceed with business and protect depositors.

Country banks afford much better securities than city banks, because few hold more than \$6 of deposits for every dollar of capital and profits.

Reserve city banks holding deposits of \$25,000,000 on a capital of say \$500,000 is ridiculous; they might just as well have no capital.

I would further suggest that an examiner, or more than one, should constantly be employed in the examinations of reserve city banks and give their whole time to the work. Two examiners a year for city banks with millions of loans and deposits is totally inadequate to learn the affairs of such a bank. The examiners should examine the loans as they are made, daily, and report to the Comptroller. All the trouble I have had on account of panics originated in the big

banks in cities, the Commerce of Kansas City, for instance. If the Commerce of Kansas City had had an examiner who watched the discounts daily and reported any bad loans or excessive loans, the bank would never have gone into suspension.

What banks need is prevention rather than cures after the mischief is done.

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OCTOBER 12, 1908.

R. E. Craig,  
President New Orleans National Bank,  
New Orleans:

We ask permission to inclose to you herewith the replies dictated by our judgment to the questions and inquiries propounded in your circular of the 26th September.

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1. It should be made subject to civil-service rules. The system of rotation in office has the tendency to imbue those subject to it with the idea that public office is a sinecure and an opportunity for exploitation. Tenure under civil service, on the other hand, makes it a thing to be cherished and made permanent through merit and exertion. It carries with it also the influence of tradition and esprit de corps—forces which work strongly in the direction of efficiency. Finally, it makes advancement through superiority a possibility and a reward to be striven for. These things would make even the good examiners better.

2. The salary or the per diem method is the more rational one. The fee system is an incentive to slight the examinations of the smaller banks, offering as they do only reduced compensation. As between the salary and the per diem bases, the former is the preferable. The latter would be a temptation to prolong examinations unnecessarily. Provision should certainly be made for the defraying of all necessary expenses incurred in making examinations, and such expenses, together with those for salaries or other compensation, should be borne by the banks which benefit by the examinations.

3. It would seem that the banks offering the greater amount of work should bear a corresponding proportion of the assessment; therefore the method of basing assessments on gross assets seems the fairer.

4. A suitable provision should be made for supplying vacancies in the force of examiners with competent men. A limited number of assistant examiners might be desirable, but there should be no sinecures or unnecessary employees to add needlessly to the burdens of the national banks on account of examinations.

5. Examiners should be in position to furnish bonds in such contingencies, and required to do so when called upon to act as receivers of failed banks. There is no occasion for it when they are acting simply in their capacity as examiners.

6. The amount of paper of the kind referred to, that may be discounted, should be limited. A limit can be found that will afford the owner of such paper every proper facility for converting it into cash, and at the same time prevent the friendly or generous impulses of the bank official from leading him to overload his institution with any

one risk. There is no reason why the Comptroller should not be equipped with the authority to take action when the limit is being exceeded, and he should be given it. Too much or too critical supervision can not be given a bank. There is no reason for placing directors and officers of banks in a different category from general creditors in the matter of making loans on paper of this character. Good paper is a good asset for a bank to hold whether it comes from an officer or director or general creditor, and bad paper coming from a general creditor is no less bad. A law without a penalty for violation is no law at all. Penalties should be provided, without fail, for the law as changed, and should be rigidly enforced against those responsible for violations.

7. There is no reason why one depositor should be preferred over another in such case because he happens to have made his deposit later. In the case of an association with an impaired capital the administration should be taken entirely from the hands of the directors and officers and should be reposed in a representative of the Comptroller's office. His policy should be to build up the cash reserve to the highest possible point during the time given for the restoration of the capital, and if the latter is found impossible, that policy will be effective in shortening the time necessary for liquidation. An excellent restriction to impose upon the administration of a national bank would be to make it unlawful to make any loan at a longer term than six months.

8. There is no necessity for such limitation, excepting as to the manner of making the loans. Loans to officers and employees should be authorized only by sanction of the board of directors, and that sanction should also prescribe the nature of the loan—the collateral or other security. Loans to directors can very well be intrusted to the officers of an association, but it should be required that such loans, and all others, should be brought to the attention of the board of directors at the next meeting, full information as to the character of the loans being required to be given. It should be mandatory upon a national banking association to hold meetings of the board of directors at least semiweekly.

9. It is of the first importance that the double liability resting with holders of national-bank stock should be preserved. The prohibition against the holding of the stock of one corporation by another is a very wise one, and if made universal as applying to the stock of national banks would be very useful, and would not often be found disadvantageous.

10. There is nothing to prevent the transferring of securities for the purpose alluded to, from one building to another, and legislation would not be effective. It will be difficult to devise a means of preventing the foisting of securities upon the examiner, if they are available to the dishonest official. The problem offers one of the many opportunities that are given the examiner for the exercise of his perspicacity.

11. Such a requirement would be inconsiderable enough, and no complaint could be made against it. It should be made.

12. There would be no harm in making the separation, and it might be well to require it.

13. Yes; for the reasons given in answer to question No. 1.

14. There is every reason why it should.

15. Such a provision would offer many difficulties to enforcement, but there is no reason why it should not be incorporated in the law.

16. The case could be met in the same manner in which is met by the law the case of deficient reserve, which is by prohibiting the making of further loans, paying dividends, etc. The whole provisions of the law touching deficient reserve could profitably apply in the case alluded to.

17. There is every reason why it should be increased to meet the demand for small bills.

18. It would be well. The assets should be liquidated with as great dispatch as possible consistent with the avoidance of unusual sacrifice. Such as could be sold to other banks and investors should be sold immediately, and the process of liquidation should be carried on not alone with a view to paying the depositors in full, but also in doing so as soon as possible. As far as the depositors are concerned, long receiverships and long liquidations should be discouraged.

19. This would be a pretentious and difficult undertaking. The commission will probably do well to call to its aid an advisory council selected from among the practical bankers of the country, such selection being based upon the qualification of long experience in bank management and proven conservatism of temperament.

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OCTOBER 8, 1908.

Waldo Newcomer,

President the National Exchange Bank of Baltimore,  
Baltimore, Md.:

Referring to your printed circular, regarding suggested changes in national-bank laws, issued under date of September 26, 1908, and requesting answers to nineteen questions, I beg to reply to them as follows, but in submitting my replies would state frankly that whilst many of them have been carefully considered, others have come before the writer for the first time in your circular, and consequently have not had the full consideration to which they may be entitled, and on many in which I answer positively there may be arguments on the other side which I have not heard; but as an expression of opinion I would reply as follows:

1. Examiners should be appointed subject to civil service rules, but these rules should not be applied to their tenure in office, as the Comptroller should have full power to dismiss them, even on a breath of suspicion, without actual trial and proof, if he thought best to do so.

2. Examiners should be paid on a salary or per diem basis, plus expenses.

3. Assessments against banks to pay examiners should be based on gross assets, not capital alone.

4. A force of assistant examiners to cooperate with the examiners, and forming a force from which new examiners could be recruited, would be desirable.

5. Examiners acting as temporary receivers should be required to give bond, unless there is some objection to this unknown to me.

6. If the discount of commercial paper owned by the person negotiating same is not to be considered as money borrowed, coming under the limit of loans, there should be a provision limiting the

amount of such paper which could be carried for any individual over and above the limit placed on loans to him on single-name paper. Comptroller should be given authority to take action, in his discretion, when loans exceed the limit. Directors and officers should not be placed in a different category. (I suggest providing for this difficulty under question 8.) Penalty should be provided, unless the Comptroller's power is sufficient to promptly stop them.

7. If practicable, Comptroller might be given authority to require a bank to hold separate all deposits received after notice of the impairment of its capital, and to refund these to the depositors if the capital was not made good within the time provided by law.

8. I do not think officers or employees should borrow from their own bank except on unquestionable marketable collateral with a generous margin, but would not recommend restricting directors in this way, as directors are selected for the accounts they can bring to a bank and they serve without pay, except in some cases receiving a per diem, and I do not think they should be required to transact their business with another bank.

9. I do not think it wise to make such sweeping prohibition against the holding of shares in national banks by any other corporation as you suggest, but if possible there should be a provision against such stocks being held by corporations under the same general management, although I appreciate the difficulty of making such a distinction or enforcing such a law, as evasion by "dummy" methods is very simple. The law you suggest, however, would, in my opinion, work great hardship.

10. I do not think there should be prohibition against the location of another banking institution in the same building with a national bank. I think the danger suggested can be fully covered by minor changes in the method of examination and precautions by the examiner, such as the Comptroller is considering now.

11. I think it would be wise to require reports in duplicate, both reports being sent to the Comptroller of the Currency, and one copy furnished by him to the examiner.

12. I do not believe it would be wise to publish the liabilities of officers and directors even collectively. The public is scarcely qualified to consider such a statement, and it might cause unnecessary alarm. A careful supervision from the Comptroller's office, it seems to me, would fully cover the danger.

13. I think both deputies should be appointed by the Secretary of the Treasury under civil service rules.

14. Section 5209 regarding false entries made by an officer should be extended to false reports made to the Comptroller.

15. Law should be changed to make it possible to enforce liability of shareholders who have foreseen insolvency of a bank and transferred their stock to escape liability, if such a change is practicable, but I have no suggestion to offer.

16. I can not see how the sale of bonds held against circulation can possibly be detrimental to the interests of the Government, and as to note holders and creditors, if the bank is in such a condition that it can not maintain its 5 per cent fund, I should think an immediate receivership would be best for both the above classes.

17. I do not understand the reason for the limit now placed by law on the amount of notes of the denomination of \$5.

18. If by a change of existing law liquidating banks could arrange to pay depositors more rapidly, it would no doubt be a desirable thing to accomplish, but the only suggestion I can make is that authority be given the receiver to borrow a certain percentage, not exceeding 60 per cent, of ascertained value of assets, and out of this pay a dividend to depositors.

19. I have no suggestion to make regarding changes in the reorganization of the Comptroller's office.

The above is respectfully submitted as a personal opinion only.

OCTOBER 22, 1908.

H. L. Burrage,  
President The Eliot National Bank,  
Boston:

We beg to acknowledge receipt of circular letter dated September 26, 1908, regarding suggested changes in national banking laws, and to reply to the questions upon which we feel qualified to express an opinion, as follows:

1. In cases of new appointments of examiners, we favor the application of civil-service regulations.

2. We believe the service would be improved by changing the compensation of the examiners to a salary or per diem basis.

3. In making assessments to provide a fund to pay examiners, it would seem fairer to base the amount of this assessment on capital and gross assets rather than on capital alone.

4. Yes; as undoubtedly the corps of regular examiners has more work than it can efficiently do and the present assistants have no legal standing or authority.

5. No; we do not think it would be advisable to require of examiners acting as temporary receivers a bond.

6. We believe this question to be a very broad one and exceedingly difficult of satisfactory regulation, but would favor some restrictions that would hold a national bank to a conservative course and give the Comptroller authority to take action when, in his judgment, loans of this class are being made in excess of a prudent limit. We do not believe that the directors and officers of banks should be placed in a different category from general creditors in such cases.

7. It is extremely doubtful whether any notice could be given which would protect depositors in cases of impairment of capital that would not result in such publicity and consequent runs as would defeat the purpose of the assessment—that is, the rehabilitation of the bank—and if the bank, in the judgment of the Comptroller, is not in such condition that the depositors are safe pending the collection of the assessment, we believe the bank should be closed.

8. In cases of borrowing from a bank by its directors, we do not think any distinction in the limitation should be made between them and other customers, but we do not believe that any officer should be permitted to borrow money from his own bank.

9. In our opinion it would not be wise to provide against the holding of shares of national banks by any other corporations.

10. We think the law preventing the operation of another banking institution in the same building with a national association might result in unnecessary hardship, and we do not favor such a law. The

simultaneous examination by State savings-bank examiners and national-bank examiners would prevent the frauds referred to, and while we recognize that such State examinations can not be controlled by the Comptroller of the Currency, we believe the spirit of cooperation between the departments is growing and could be so encouraged as to obtain very satisfactory results.

11. In our judgment it would be wise to require that reports of condition should be made in duplicate to the Comptroller of the Currency, so that one copy could be furnished to the examiner by the Comptroller.

12. Yes; we believe that the publication of the reports of condition of national banks should show the individual liability of the officers and directors collectively.

13. In regard to the provision for deputy comptrollers of the currency, we should recommend that both of these deputies be appointed by the Secretary of the Treasury as a result of civil-service examinations and be subject to civil-service regulations.

14. Yes; we believe the law should be so extended.

15. Yes; but it would undoubtedly be extremely difficult to prove knowledge of insolvency in most cases of such transfer, and it might be advisable to limit the application of any change in the law in this regard to the officers and directors, who should be in a position to have knowledge of such insolvency, and also fix a definite time limit to apply to such transfer, say within six months previous to the closing of the bank by the department.

16. We believe that the law should be so changed that where banks fail to promptly reimburse the Treasury for the redemption of their circulation, upon proper notification, the Comptroller should have authority to enforce a penalty, which might be in the nature of a fine, upon the bank.

17. Yes; we are strongly of the belief that the present feature of the law limiting the amount of notes of five-dollar denomination is unnecessarily restrictive and frequently causes great inconvenience in some localities. We favor increasing the limit in this regard.

18. Of course it would be well, if possible, to make any changes in existing laws that would facilitate the prompt liquidation of failed banks, but, as a matter of fact, we believe in such cases usually that other banking institutions in the same locality are willing to make as liberal advances to the depositors of the failed banks against receivers' certificates as is prudent to do under the circumstances.

19. The only suggestion that we have to make relative to the organization of the Comptroller's office is to express the hope that the appropriation for the expenses of the office be made liberal enough to allow the Comptroller to satisfactorily administer the office without restriction.

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NOVEMBER 24, 1908.

Francis B. Sears,  
Vice-president The National Shawmut Bank,  
Boston, Mass.:

According to your courteous request I will undertake to reply to your inquiries regarding changes in the national banking laws.

1. The position of bank examiner requires some special qualifications and, with absolute freedom from political influence, perhaps

the best selections could be made without a civil-service examination. In this immediate vicinity the examiners have been fairly competent men. I am inclined, however, to the belief that the application of civil-service regulations would prevent an occasional bad appointment and on the whole produce the best results.

2. I am in favor of a salary or per diem basis of compensation rather than the fee system. It appears to me that it is better that the examiners should take abundant time to make their examinations thorough and effective.

3. In my judgment the expense of examinations should not be assessed upon capital alone. For example, it is a much larger undertaking to examine the First National Bank of this city than to examine the Merchants' National, whose capital is the larger of the two. Perhaps the amount of gross assets would be as fair a basis as is practicable.

4. An opinion on this point can hardly be of much value unless based on more familiarity with the routine and detail of the department than I possess. I should think, however, that a corps of competent assistant examiners, to be used wherever the most need might appear, would be of value, and that promotion from their ranks would be an incentive to competent men to take these positions.

5. I should think the ordinary policy of the Government in regard to its servants in positions of trust ought to apply to examiners acting as receivers unless the appointments are for a very short time.

6. The fact that banks can loan more on weak business paper than on the security of government or municipal bonds has always been a subject of unfavorable comment. As you say, the privilege has at times been abused with disastrous results. At the time the law was passed genuine business paper with two good names representing actual transactions in merchandise was not uncommon. At present notes for merchandise are not given by strong houses. It seems to me that the 10 per cent limitation of capital and surplus ought to apply to loans to any one house on business paper. It would not seem to me wise to limit the total amount of business paper which a bank may hold, but only the indebtedness of one person, firm, or corporation.

I think the Comptroller should have larger discretion than at present in compelling banks to abandon dangerous practices. He should be allowed to appoint a receiver before the danger point for depositors actually is reached.

It does not seem to me at present advisable to place directors and officers of banks in a different category from general creditors in such cases, but, as I have already said, to allow the Comptroller power to appoint a receiver if a bank persistently refuses to correct practices which he considers dangerous.

It would be difficult to enforce a penalty except in the case of a direct violation of law. I think that even with the present powers of the Comptroller he might accomplish more than he has done by keeping his examiners persistently at a bank with a threat to notify stockholders and depositors of improper banking methods. With the added authority I have suggested, to appoint a receiver without waiting for actual insolvency, he would be complete master of the situation.

7. In my answer to the second inquiry in paragraph 6, I have suggested that the Comptroller should have authority to appoint a receiver before the danger point for depositors actually is reached. It seems to me that the proper exercise of this authority would be the best protection for depositors in a bank whose condition is such as you describe.

8. Any limitation of the right of directors to borrow would disqualify many of the best directors of some banks. In this bank, for instance, we might be deprived of the services of Mr. Frank Bemis, of Estabrook & Company; Mr. Henry L. Higginson, of Lee, Higginson & Company; Mr. Henry S. Bowe, of Lawrence & Company; Mr. Frederick S. Moseley, of F. S. Moseley & Company; Mr. Frank G. Webster and Mr. Robert Winsor, of Kidder, Peabody & Company; Mr. William H. Wellington, of Wellington, Sears & Company; and if the limitation should apply to the corporations with which directors are connected, we should lose also Mr. T. E. Byrnes, of the New York, New Haven and Hartford Railroad; Mr. Edwin F. Greene, of the Pacific Mills; Mr. C. Minot Weld, of the New England Cotton Yarn Company, all of whom control a large amount of valuable business and are among the safest borrowers on our list. The limitation or even the forbidding of borrowing by officers of the bank would perhaps be of little consequence in the city institutions. It is the practice of many of us never to borrow of our own banks, but if we have occasion to ask for a loan to apply to some other institution and offer satisfactory collateral. In the case of some country banks, however, especially where there is only one in the town, the president very often is a man in active business, and for that reason I do not favor any change until the need of it is more thoroughly demonstrated. Here again I think the exercise of the Comptroller's powers should be sufficient.

9. Besides the cases you describe, there are many other instances where the holders of national-bank stocks can not respond to an assessment. I question the expediency of trying to cover specific cases where it is impossible to cover all. There are many corporations—savings banks, for instance—which are investors in the stocks of national banks for an entirely legitimate purpose.

10. It does not seem to me that the operation of another banking institution in the same building with a national bank would be more dangerous than its location in the next building or in the same block. I should think an arrangement for simultaneous examinations or comparison of notes by the state and national examiners would be the best safeguard.

11. In my judgment, it would be well to have the reports made in duplicate and compared at the department in Washington and one of them kept on file by the local examiner. No objection to such a policy is apparent, and its advantages under certain conditions are obvious.

12. At present I do not favor including in the published reports the liabilities of directors. The loans to directors of this bank, as I have said in answer to a previous question, are among the safest and best secured in all our loans. This is probably true in many banks, perhaps in the large majority. The public, however, would not know the actual conditions, and a grave injustice to some institutions might result from publicity.

13. I am not prepared at present to recommend the selection of deputy comptrollers by civil-service examinations. I hope and believe that in the selection of officers of such importance fitness would usually be the first consideration.

14. I see no reason why the proposed extension of the law should not be made.

15. The difficulty of establishing the motive for a transfer of stock would be great, and the suggested provision might at times result in grave injustice and hardship to innocent people. I should think the evils of the change likely to be greater than the benefits.

16. This is a difficult question. At the moment the only suggestion I can make is that a penalty in the shape of a fine should be prescribed and enforced against delinquent banks, perhaps increasing the amount from day to day or week to week.

17. It is well understood that the restriction of small bank notes was established in order to provide a place for silver currency. It is no doubt unfortunate that the large volume of silver was ever injected into our financial system. With the present limitation of its volume maintained, and with the provisions for its protection and redemption, probably no danger to the gold standard will result from this source. A step toward the issue of smaller currency of other character has been taken in the issue of ten-dollar gold certificates. I do not see why national-bank notes should not be issued in the denominations which the banks need to provide for the wants of their customers, except that I should not advise the issue of one and two dollar notes. These denominations should be issued only in silver, and the increasing demand for them with the growth of the country will tend to relegate silver to its proper place as a subsidiary currency, and consequently keep it from threatening the stability of the gold standard. Silver certificates are now practically all of small denominations, yet the supply of small currency at times is insufficient. It has been suggested that the issue of small gold certificates will tend to withdraw gold from its proper use as reserve money and put it in circulation. This condition perhaps might be avoided by a large issue of five and ten dollar national-bank notes to fill the gap between the smaller silver denominations and the larger gold denominations of certificates. A redundancy of small currency would be remedied by the disposition of the banks to forward for redemption the notes of other banks rather than the gold or silver certificates which serve for reserve money.

18. Probably not much hardship has resulted to the depositors in failed banks because they are usually able to get advances from other banks on the receiver's certificates. There is, however, every reason for making the settlements of the affairs of failed banks as prompt as possible.

19. I have never seen that the organization of the Comptroller's office was defective. The only improvement I can suggest is the possible increase of his corps of examiners, perhaps in the line of a force of assistant examiners suggested in your question 4.

In the foregoing paragraphs I have indicated my belief that the great and pressing need for change in banking affairs is for a more vigorous administration of the Comptroller's office than ever has been made heretofore. I believe the depositors can be so thoroughly protected by the Comptroller that no guaranty of deposits will be

even desirable. I hope to see all legal-tender qualities removed from national-bank notes and their use as reserve money by state banks or trust companies forbidden. The reserves of all banking institutions should be kept in gold or its equivalent, and bank notes should go home to the issuing banks as rapidly as possible. To this end additional means for prompt and inexpensive redemption should be provided. Perhaps the proper degree of elasticity is impossible with a bond-secured circulation, but the measures I have suggested, with the removal of all restrictions on the retirement of circulation, would certainly result in making the volume of currency more elastic than at present.

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OCTOBER 9, 1908.

Alfred L. Ripley,

Vice-president the State National Bank of Boston:

Your circular dated September 26 and asking for reply to certain questions concerning possible changes in the national-bank laws has been duly received and considered.

Many of the questions are such as can be better answered by the Comptroller's department than by any banker.

As to question 1, I think bank examiners should be subject to civil-service rules. I know of no reason why the civil-service regulations should not be applied to their tenure of office. As to No. 2, I am inclined to prefer a per diem basis.

As to 3, I think the assessment should be based on capital and gross assets.

4. Yes.

6. I am not clear what all this means. There is so little paper to be found nowadays of the kind excepted by the statute that I had not supposed trouble often arose from excessive loans of this kind.

As to the Comptroller's being "given authority to take action," it seems to me better to give him the right to impose certain adequate and effective penalties, such as the removal after a hearing of officers or directors, or the fining of the bank itself. What is meant by the question whether directors or officers should be placed in a different category from general creditors, I do not understand. Should the word "creditors" be "debtors," or, in other words, do you refer to the indebtedness of directors and officers to their own bank?

8. I should be glad to have an officer forbidden by law to borrow from his own bank. I do not, however, think it would be wise to forbid directors.

9. I should prefer to provide against the holding of shares of national banks by other corporations; but that question is a large one, and any change would have to be made very gradually.

10. I do not think that attempt should be made to reach this apparent evil by legislation.

11. The simplest way would be to have the examiner get his information from Washington and not from the bank.

12. I should approve publishing the liabilities of officers and directors collectively.

13. Yes; to both.

14. Apparently, yes.

15. It would be wise in my opinion to provide a term during which the liability of an old stockholder for an assessment, in case the party to whom he sold the stock could not pay should continue; say sixty to ninety days.

16. Give the Treasurer power to fine the bank a reasonable amount for each day's delay.

17. I have never seen any reason why the banks should not receive circulation in the denominations which they desire.

In general, the Comptroller seems to me to have too little power, and the penalties at his command are not such as can be readily used. If he were able to fine institutions or remove officers I think much good could be accomplished.

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OCTOBER 17, 1908.

Thomas P. Beal,  
President The Second National Bank,  
Boston, Mass.:

Acknowledging your circular in regard to suggested changes in national banking laws, I beg to send the following partial answers to the same, saying in the first place that, naturally, my opinion is governed by conditions existing in Boston, and it is difficult to separate that judgment from what would seem to me best for the national banks of the country, although I shall endeavor to keep in mind that your committee is considering the conditions of the banks of the United States.

1. In my judgment it is not desirable that the method of appointing examiners be made subject to civil-service rules, nor is it desirable to apply civil-service regulations to the tenure in office of bank examiners.

2. In my judgment it is desirable to change the examiner or examiners to a per diem basis, to which there should be added the necessary expenses incurred in making the examination.

3. In making assessments the law should be changed so as to base the amount of the assessments on capital and gross assets rather than on capital alone, subject, however, to what I have said in No. 2, as above.

4. It seems to me desirable to have a sufficient force of assistant examiners to properly perform the work, but this should be left to the judgment of the examiners or be under the control of the Comptroller of the Currency. The force of examiners should not necessarily be recruited from the assistants unless they are well qualified for the position, in which case they should.

6. The Comptroller should be given authority to take action if, in his judgment, loans are being made in excess of the limit indicated by prudence and safety.

7. The Comptroller should have authority to protect depositors.

8. I think there should be a difference between loans made to officers and directors. I think officers should be allowed to borrow from their own bank only on collateral which has a quick market value.

10. Should not recommend preventing the operation of another banking institution in the same building with another banking association.

11. The matter should be left to the Comptroller of the Currency, who should be required to do so if he thinks best.

12. I do not think it wise to show the individual liability of the officers and directors.

13. I should not recommend that the deputies be appointed as a result of civil-service examination.

14. Yes.

15. No.

16. Yes.

17. Yes.

18. No.

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NOVEMBER 14, 1908.

J. P. Lyman,

President Webster and Atlas National Bank of Boston,

Boston, Mass.:

I am in receipt of your circular of September 26, asking for replies to certain questions. I regret to have delayed my answer so long, but press of business has prevented an earlier reply.

I omit answering certain questions, feeling that I have not sufficient information to form a competent opinion.

In answer to question No. 1. I think the method of appointing examiners should not be made subject to civil-service rules, nor should civil-service regulations be applied to tenure of office.

2. I think it desirable to pay examiners by a salary, or a per diem basis. A small bank is often more trouble to examine than a large bank, and the latter should not be called on to pay a part of the former's bill.

3. I think the amount of assessment to provide a fund to pay examiners should be raised by a tax on capital and gross assets, rather than on capital alone, as at present.

4. No.

6. I think it impossible to make a rule limiting the amount of indirect obligations a bank may discount without imposing a hardship on sound business sense. Dishonest or incompetent officers and directors, which are the exception, should not make a rule for well-managed banks.

The Comptroller should have authority to take action when he thinks the limit of safety in making loans has been passed.

Directors and officers should be in the same category as other persons.

A penalty should be enforced against officers and directors as offenders.

7. I see no way in which depositors can be protected during three months or less, and if it were possible it would prefer them to all others. Why should not the Comptroller, when an impairment of capital is brought to his notice, communicate at once such information to the clearing house committee who would have the facility of dealing with the delinquent in the most effective way.

8. What I have said in answer to question 6, in respect of limiting the amount of certain paper, applies here. I would rather have officers and directors borrow of their bank than elsewhere. If a bank can not trust its own managers, it had better liquidate. It is absurd

to believe every other bank's directors are more honest than yours, which would be the logical deduction from barring your directors from all accommodation.

9. Again, what I have said in answer to question 6 applies here. It would be unjust to forbid investment in bank shares, because in a comparatively few cases the funds of corporations have been used to further personal ends.

10. No.
11. Yes.
12. No.
14. Yes.
15. No.

16. Let the Comptroller sell the bonds; they are collateral security and should be treated like any other collateral when the pledgor fails in his agreement. Profit or loss to the Government should not be considered, whether through purchase of its bonds in the one case or through their sale in the other.

It has always seemed monstrous to me that a fictitious value should be given to government bonds through forced sales to banks.

17. Yes.
18. Yes.

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OCTOBER, 5, 1908.

Jos. W. Selden,  
Cashier First National Bank of Calumet,  
Calumet, Mich.

SIR: I have your circular letter dated September 26 asking for opinions relative to the working of the present national banking law, with particular reference to the present methods of examinations of national banks. For the sake of brevity permit me to reply to your questions by number as arranged in your circular.

1. No. The civil service as applied in the office of the Comptroller at Washington has already crippled the efficiency of that bureau. I do not believe it is possible to devise a form of examinations which will reveal the qualifications necessary for a successful bank examiner. When such a person is secured every means possible should be used to keep him in the service. At the present time the office of national-bank examiner is regarded as a stepping stone to a good position in some bank. This fact does not have a tendency to increase his efficiency.

2. I believe that the fee system is entirely wrong. Examiners should be paid either a per diem or an adequate salary, with traveling expenses. Under the present fee system there is no encouragement for an examiner to do creditable work in a bank where the examination fee is relatively small.

3. It would be much fairer to base the assessment for the examination upon the gross assets rather than upon capital stock.

4. I think it would be most desirable to provide for a force of assistant examiners to work in cooperation with all national-bank examiners, and from this force to recruit the principal examiners when necessary. In this manner it would be possible to furnish your principal examiner with the training which he can procure only by

actual experience, and which no amount of theoretical knowledge will supply.

5. Perhaps it would be well to require temporary receivers to give a bond. In that case, however, the expense should be borne by the trust. The Comptroller's office has always been niggardly in its allowance to its examiners who have been assigned to receiverships. In this connection I think you will find that there is no case on record where a national-bank examiner acting as temporary receiver has ever been found delinquent in the administration of his trust.

6. The provisions of section 5300 of the Revised Statutes, including that relative to the discounting of bills of exchange and commercial paper, is right and proper. The difficulty has been to discriminate between what is really and truly commercial paper and that form of accommodation which has been recently adopted by some large borrowers. The form is like that of paper given in the actual transaction of business to the apparent owners, when in fact no values have passed, and the paper is merely manufactured to deceive. If you should restrain the discounting of bills of exchange, etc., to the regular limit of 10 per cent of the capital and surplus, you would deal a blow to the legitimate business interests of this country, the evil of which would be incalculable. It is impossible to conjecture the full extent of the injury. If, however, the law should prescribe some method of determining accurately the dividing line between the two classes of paper which I have mentioned above it would greatly simplify the situation. I believe that the Comptroller should be given large discretion in this matter.

I can not see why the law should discriminate against the directors of national banks in the matter of business accommodations. In all communities it is desirable that the active, successful business men should be allied with the management of banks. If you restrict the accommodations allowed such persons because of their connection with your institutions, you will drive them from directorates, weaken the standing of the banks in the community, and disturb business conditions more than would many failures.

7. Under the circumstance mentioned, I think such depositors have the moral right to preference when it comes to winding up the affairs of the bank.

8. I have partially answered the first part of this in No. 6. With regard to the officers of banks, I think in all cases they should be required to secure their own loans from their own banks by ample, approved collateral.

9. I believe it is against public policy for one corporation to own stock in another, and I believe that it is especially hurtful to a national bank to have any of its stock in the hands of another corporation.

10. I believe it is entirely wrong for two banking institutions to be allowed to occupy the same building, especially where the quarters of the two institutions can have communication otherwise than through the public thoroughfare, and when the same interests are large stockholders in both.

11. I think the suggestion of duplicate reports, one of which should go to the examiner, is a very wise one, and have often wondered why it was not adopted by the Comptroller's office.

12. The publication of the aggregate of all unsecured loans to directors and officers might be a wise thing. By unsecured loans I mean those behind which there is not ample approved collateral.

13. I think it would be a great mistake to still further cripple the office of the Comptroller of the Currency by requiring civil-service examination for the Deputy Comptrollers. I understand at the present time the deputy holds his position by virtue of the civil service, and it is beyond the power of the Comptroller of the Currency to name his chief assistant. This is entirely wrong. The person who represents the Comptroller during his absence or inability to perform his duty should be directly responsible to his chief.

14. Yes, I believe the law should be so amended as to include false reports to the Comptroller.

15. Most certainly. Such people should be forced not only to stand the assessment on the stock transferred in anticipation of insolvency, but should be required to return all deposits which they may have withdrawn after the knowledge of insolvency came to them.

16. I believe the Comptroller should be empowered to employ milder penalties than now provided, and also to retain the authority to enforce the extreme measures, if it shall become necessary to do so.

17. I think it is desirable for the banks to decide the denomination of the currency used by them for circulation, without restraint of any kind. There are times in the history of every national banking institution when it is subjected to great inconvenience on account of present absurd restriction.

18. The change suggested would place a dangerous discretionary power in the hands of a receiver, and might bring about very unsatisfactory results. No matter how carefully the assets of a failed bank might be examined, or how good might be the judgment of the receiver, contingencies often arise which can not be foreseen. Often paper and securities which look to be "gilt edge" at the beginning are a sad disappointment in realization. It is much harder work to collect the paper of a borrower after a bank has become insolvent than when it is a going institution. Many men are prompt and satisfactory customers so long as their bank is a going institution, but fail utterly to meet their obligation when the bank has ceased to do business. For these reasons I do not believe that the change suggested in number 18 would be a wise one.

19. Experience, judgment, tact, are the three great essentials for the administration in every department of the Comptroller's office. These the civil service can not provide. I think that the Comptroller of the Currency, his deputies, and at least the heads of every division, should be men of business experience outside of the office before their appointment. This business experience should be obtained in a bank if possible. The grist which the civil service mill grinds out is about the most unsatisfactory material that can be conceived for this purpose.

In this connection I have taken the liberty of sending you a confidential letter written to the Comptroller of the Currency, replying to a circular letter asking some questions along the same lines of your circular.

Joseph W. Selden,  
Cashier,  
Calumet, Mich.

To Comptroller of the Currency Lawrence O. Murray:

Replying to your circular letter of the 14th instant, Luther and Folds are both first-class examiners, each in a different way. Folds is a former bank accountant and pays more attention to minor details; while Luther, an ex-cashier, takes a broader view of credits and discloses excellent judgment in this direction. Mertens came to us directly from his work with the New York City examiners, where he had been confined to some certain division of the work, and lacked the all-around experience necessary for work in the country, where the whole examination must be done by one man. I believe, however, he has the ability to make a first-class man.

Pardon me if I presume upon eight years' service as examiner for your bureau to say some things which may not be pleasant for you to hear, but which, I think, you should know.

Considering the class of work he is called upon to perform, the national-bank examiner in a country district is a greatly overworked and underpaid individual. If he feels the responsibility of his work, and most of them do, keenly, he is carrying a load for which the pitiful fee is poor compensation. If he fills out the full measure of his position he is not merely an inquisitor, but a friendly counselor and confidant as well. I, myself, know of a score of successful banking institutions which owe their very life to the careful discretion of such a man.

I believe that Comptrollers as a rule fail to appreciate the worth of "the man on the job." It seems to me that he is both your eye and your hand. Before his appointment he usually has had enough business experience to season his judgment. Yet under the system in vogue in the Comptroller's office his work is reviewed—his judgment often reversed—by an inexperienced, irresponsible department clerk, whose ignorance is guided only by cast-iron precedent and interminable red tape, and thus a high-class man in touch with the situation is frequently overruled by a person who can not know the conditions, and, if he did know them, is incompetent to meet them intelligently. Until your country examiner enjoys in some degree the freedom and independence of action accorded the examiners in New York, St. Louis, and other large central reserve cities it will be impossible to keep broad-gauge men in the positions. The freedom from petty dictation offered by bank positions is more tempting to such men than the substantial increase in income. The fact that the successful examiner is constantly besieged by tempting offers does not tend to improve his work unless he has in the beginning firmly made up his mind to listen to none of them.

Again, the fees are not graded in proportion to the amount of work. For instance, the labor involved in making an examination of the First National Bank of Calumet is greater than that of examining the old Detroit National of Detroit. In the first instance the examiner gets \$25, and in the other at least \$225. I think the fee system is altogether wrong, anyhow. It is certainly discouraging to one who would do conscientious work at all times. I remember of an assignment that took five days' time, cost the examiner \$100 for expenses, the fee amounted to \$20.

Another thing, the person who passes on the paper, collateral, and general conditions, should not be obliged to fritter away his time and nerve force by working half of the previous night in listing the accounts in a dozen savings ledgers or several thousand certificates of deposit. The man in charge of an examination should have assistance in the merely mechanical part of his work. Until he does you will never get the best there is in him.

Your recent meeting with the eastern examiners was, I believe, a long step in the right direction. I once knew a national bank examiner who had been in the harness for over ten years and had never been to Washington or met a single person at that time connected with the office force. I believe you could improve the service more by meeting every examiner on your force once each year than by any other one thing. I think examiners should meet each other occasionally and be encouraged to compare notes as to methods of work and other matters which could be discussed with propriety. Other classes of field workers seem to derive great benefits from getting together and comparing notes. Why not national bank examiners? It was formerly a common saying among examiners that "The fewer letters you write and the less detailed information you try to give about your district, the better will be your standing with the office." I think there must have been something wrong in the attitude of the office when seasoned and successful examiners frequently give expression to this sentiment.

Perhaps you did not expect this kind of a letter from a banker, but my sympathy is all with the overworked examiner. The half hour's talk with one of ordinary intelligence about the conditions in my business as he sees them is worth more to me than the fee charged for his visit.

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OCTOBER 21, 1908.

W. I. Prince,  
Cashier City National Bank,  
Duluth, Minn.:

We have carefully considered the inquiries recited in your letter of September 26, and submit the following by way of reply:

1. In our opinion examiners should be subject to civil-service rules, and their tenure in office governed thereby as well.
2. We answer yes.
3. Assessment should be upon capital and assets.
4. We answer yes.
5. Yes.
6. We suggest that a limit of 20 or 25 per cent be fixed after the same manner for commercial paper as the 10 per cent now covers direct loans, with the same penalty for violation of the section.

We answer no to the question as to whether directors and officers of banks be placed in a different category from general creditors. We see no reason why they should.

In connection with No. 7 we suggest that deposits so made be treated as special deposits and considered as prior lien.

8. We do not think that either a director or officer of a national bank should, touching credit, be treated any differently than any other

borrower, with the exception that the entire board of directors should be conversant with loans made to any member or to an officer.

9. We think the holding of national-bank shares by any other corporation should be prohibited, except where taken to save loans, and then to be disposed of within such reasonable time as would be consistent with the prevention of loss.

10. In view of the enactment of one or two of the recommendations mentioned early in this letter, in the way of paying examiners a salary instead of treating them upon a fee basis, the increase in the number of examiners, and the application of civil-service rules, we do not feel that the location of another banking corporation in the same building with a national bank a serious enough matter to call for special legislation.

11. We answer yes.

13. Yes.

14. Yes.

15. Yes.

16. Yes.

17. Yes.

18. We understand that a large surplus has accumulated with the Government in excess of the cost of operating the Comptroller's department through the duty upon circulation, and that this surplus now aggregates about \$200,000,000. It is suggested that in so far as this reserve will enable the department to do, that the probable percentage conservatively estimated which an insolvent bank will ultimately pay its creditors be paid immediately upon the suspension of the institution, and that fund of course reimbursed as the assets are realized upon.

19. No.

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OCTOBER 3, 1908.

James W. Lusk,

President The National German American Bank,

St. Paul, Minn.:

I have your circular letter of September 26 in regard to suggested changes in national banking laws.

1. I would say that the method of appointing examiners should be changed so that they were subject to civil-service rules. When a new Comptroller goes into office, he has personal political friends that he thinks he must give positions to. The result has been some very lamentable appointments; not very often, but occasionally.

One appointment made by Mr. Ridgeley was that of a young man—done at the solicitation of senators who were under obligations to the young fellow, and he was thoroughly incompetent—in fact, the banks decided not to pay the expense for his examinations, in order to bring the matter to a focus. Good bank examiners should not be subject to change except for some cause.

2. I think the system should be changed to a salary basis, so as to make it certain and equal, and do away with any attempt at graft by leaving it under a fee. If the salaries were fixed in proportion to the field occupied by the examiner, it would then be thoroughly understood.

3. I say, unquestionably the law should be changed so as to make the assessments for paying examiners on capital and surplus, and to avoid any chance for misunderstanding, I would go further and make it capital, surplus, and undivided profits.

4. I agree with the suggestion therein contained that it is desirable to have a force of assistant examiners to work in cooperation with the examiners in large cities and fill any vacancies which might occur on the force of examiners by these assistants, who have become skilled in the business.

5. Whenever an examiner is put in charge of a failed bank he should be required to give a sufficient bond for the protection of the Government and the bank immediately on taking possession, just exactly the same as a receiver would have to do if he had been appointed.

6. Now that the law has been amended so as to allow national banks to give a line of credit to the extent of 10 per cent of both capital and surplus, that line should be limited in all cases to that limit. The provision referred to (sec. 5200) has been construed so as to allow too much laxity in that direction. That should be repealed, and no one customer or one name should be allowed to go above the limit now allowed by law. It should not be left to the judgment of the Comptroller at all; and I should think the Comptroller would object to having it placed in him, as it might subject him to a good many importunities that he ought to be spared.

Directors of banks should not be placed in any different category from general creditors in such cases. The bank examiners should be cautioned to watch the loans made to directors with a great deal of care. If they are specially excepted the result will be that the very best of men will refuse to serve on boards of directors.

I think officers of a bank should be placed in a different category from general creditors, and should never be allowed to borrow from the bank except upon resolution of the board of directors and on approved collateral, worth from one and a half to twice the amount they borrow, and I am inclined to think, and am very strongly of the opinion, that officers should not be allowed to borrow from their own bank at all under any circumstances.

7. It would be a wise provision in the national banking law that did protect people who deposit money in the bank after the capital has become impaired and the bank has been taken in charge by the Comptroller pending an assessment on the stock. Such deposits should be a first lien on all the assets of the bank; that would encourage friends of the bank in making deposits and helping tide the bank over pending the assessment.

8. I have answered under No. 6, to the effect that in my judgment no officers or employees be allowed to borrow from the bank at all, and the distinction should be made between officers, employees, and directors.

9. I am of the opinion that it would be wise to provide against the holding of shares of national banks by any other corporations, excepting in cases where it is taken to satisfy a debt. Corporations have been formed expressly for that purpose and to control a number of banks, called a chain of banks, with the result that when they become spread out too much in a panic the whole chain falls through and the banks all become involved.

That should not be allowed at all until such time as a national banking law is furnished that will allow branch banks, similar to those they have in Canada and in England, under proper government restrictions.

I do not think that there is anything in the suggestion contained in No. 10; that is a species of rascality that has to be watched and guarded against by the examiners. You can not frame up any law so that there can not be any rascality with parties in control inclined that way.

11. That reports should be made in duplicate—one for the Comptroller and one that the Comptroller could furnish to the bank examiner examining the bank, so as to avoid the opportunity for falsehood and misrepresentations to the examiners by a pretended report that had never been made—I fully agree with.

12. I think that in making report the individual liability of the officers and directors should be stated, and not collected—one director worth millions might borrow \$100,000 with impunity while another director might not be good for \$25,000—it would be unjust to lump them all together. Let each director that borrows stand on his own responsibility.

13. As I have stated before, I think the deputies appointed should be by the Secretary of the Treasury and as a result of civil-service examination and be subject to civil-service regulations.

14. Unquestionably the law should be amended so as to cover the false reports made to the Comptroller. I supposed that was the law now and I find it is—the wording of section 169, page 177, Pratt's Digest, 1907, expressly says, "Or to make any false entry in any book, report, or statement of the association." However, if there is any doubt about it it ought to be made to cover the report made to the Comptroller of the Currency.

15. I think the law now covers that point that a person who has transferred his stock to escape liability can be brought into court and be made to pay, but it certainly should be amended if there is any doubt about it, so as to cover such cases. Transfers of stock should be required to be made in good faith without any knowledge of any impairment in the capital of the bank. It too often happens in such cases that you find the most shrewd and best business men transfer their stock to mere dummies, for a very small consideration, to escape their liability.

16. I am surprised at the statement made in question 16, to wit, that at the present time the aggregate deficiency due the Treasurer in lawful money of the United States, equal to 5 per cent of the outstanding circulation, amounts to several million dollars. I did not suppose that such a condition would be allowed to exist, and I can not understand that way of doing business.

The Treasurer should promptly sell the bonds of the bank in default to make good the deficiency, and if it was done promptly in each case there would be very few cases.

I think the best way to do would be to sell sufficient of the bonds on deposit to make good the deficiency—that can be done quietly and effectively, and no other recourse need be given—and it ought to be done in all cases promptly; the result would be that it would be only a very short time when there would be no further deficiencies.

17. I never could understand any reason for limiting the amount of the notes to be issued in denominations of \$5 to one-third of the total circulation; let each bank take out the sized note they think they want. I think that would work out all right.

The suggestion contained in No. 8 does not appear to me to be necessary. The Comptroller has it in his power, together with the receiver in charge, to pay dividends as fast as they have the money to do it.

19. I am not sufficiently informed to make any suggestion in regard to it. The only other suggestion I might make would be that there be established a central parent bank, into which the Government put all the funds—like the Bank of England—and that bank be authorized to issue on collateral security, under suitable provisions, a very large amount of currency, to loan on short time during a panic—not to be a bank that will conduct a general commercial business, but rather a bank of deposits—very much after the plan suggested by Mr. Roberts in several addresses he has made, which, I have no doubt, you have seen.

OCTOBER 3, 1908.

L. C. Burnes,  
President the Burnes National Bank of St. Joseph,  
St. Joseph, Mo.:

Replying to your circular letter of September 26, 1908, regarding the proposed action of the National Monetary Commission in revising the laws now governing national banks, and asking for my opinion upon certain questions you propound, I would say that the present method of appointing examiners is just as satisfactory, and probably more so, than it would be to have them subject to civil service. It is a position that requires rare tact and judgment, and the Comptroller of the Currency should be a man who could select his examiners with a view solely to their qualifications and fitness for the position.

I believe the present fee system is just as satisfactory as to make it a salary and assess the salary on the basis of the bank's capital and deposits. I can not see any reason for making a change. I believe the present system of making assessments to provide a fund to pay examiners and their expenses, based upon the capital alone, is an equitable manner of adjusting this charge.

I do not believe it would be wise or desirable to provide a force of assistant examiners to work in cooperation with examiners in large places, for the reason that as the responsibility rests on the Comptroller primarily and then upon the examiner, the examiner should be allowed to select his own assistant.

Regarding section 5200 of the Revised Statutes I believe that the law now is sufficiently severe, because you must not base the law entirely on the supposition that all bankers are dishonest, and to make the law any more stringent than it is now one would have to act upon that supposition, and if a banker is dishonest no legislative enactment that could possibly be framed by Congress could keep him from wrecking his own bank. I believe the Comptroller of the Currency has ample power under the law as it now is, and I do not believe it is necessary or advisable to give him any additional authority in this matter.

I do not understand why a penalty should be inflicted upon a business man for serving as a director in a national bank. It is a difficult thing now to get men to serve as directors, and if they are to be legislated against it certainly will be a difficult thing to secure first-class material for directors.

Regarding section 5205 of the Revised Statutes the Comptroller has ample power in making the call for assessments, and while the bank is under the threat of this call certainly none of the officers, so far as I have ever heard of, would do anything to further impair the capital of the bank. I think there is a difference between an officer borrowing money from his own bank and a director borrowing money from his own bank; still, when an officer gives the bank security and can only borrow a reasonable amount, I do not know why there should be any law against his doing so. Certainly there should not be anything in the law discriminating against the directors of a bank. In other words, we want good active men not only to serve as officers but as directors, and if you discriminate against them too severely it will be a bar to their remaining in the business as directors and officers.

I do not see any objection to the holding of shares of a national bank by other corporations. I do not see any objection to the operation of another banking institution in the same building as a national bank. The fact that one or two bankers have used this means to defraud their banks is no reason for enacting a law against it. In other words, you can not legislate a man into being honest in the conduct of a bank. If he is willing to take the punishment the national banking law inflicts for mismanagement, you can not well stop him, and I believe all such stringent laws with that point in view are not only ineffective, but for many reasons are undesirable.

I think section 5211 of the Revised Statutes is sufficiently explicit, and any attempt to discriminate against the officers or directors of a bank as suggested would be to make it more difficult to get men to serve as officers and directors of a national bank.

Regarding section 5209 of the Revised Statutes I think it would be well to have it made a misdemeanor for an officer or employee to make false entries with the intention to deceive the Comptroller of the Currency. I believe the Comptroller of the Currency has ample power now to enforce liabilities against shareholders in plenty of time to recover if he acts with any degree of promptness.

The limit of notes of the \$5 denomination should be increased, in my opinion, for especially at the crop-moving time it is difficult to get bills as small as \$5.

I do not believe in any change in the existing law to expedite payment of deposits in liquidating banks, for the reason that that would in some way involve a guaranty on the part of the Government or other banks, and I do not think it right that one bank should, directly or indirectly, be taxed to make good the losses of another bank.

I trust that the committee will not be influenced by a discussion that has arisen, because several prominent banks have been looted, into making laws for the government of all banks, based upon the assumption that all bankers are like those of the First National Bank of Milwaukee and the Chicago National Bank, as I am a firm believer in the honesty of the great majority, and think that under the present law no depositor of a national bank can lose if the Comptroller enforces the law as it now stands without the officers going to prison.

OCTOBER 9, 1908.

C. H. Huttig,  
President Third National Bank,  
St. Louis, Mo.:

Referring to your circular of September 26, below you will find my replies to inquiries, given in numerical order:

1. In my opinion the present method of appointing examiners should be continued; I believe it desirable to apply civil-service regulations to the tenure in office of bank examiners.

2. It is desirable to change to a salary basis.

3. Make the assessments on the capital, surplus, and undivided profits.

4. Yes.

5. Yes.

6. Difficult to apply fixed law. Would instruct examiners to watch for abuses; the Comptroller in such cases should be given authority to take action. Believe directors and officers of banks should be placed in a different category from that of the general creditors in such cases.

7. The Comptroller should have authority in such cases to protect depositors in the manner suggested by you, but left discretionary with the Comptroller to exercise such authority.

8. Do not think the active officers of the bank should be permitted to borrow money from the bank. Believe it all right to loan to directors and to corporations in which directors and officers are interested.

9. Do not believe it wise to attempt legislation pertaining to the holding of shares of national banks by any other corporation.

10. See no serious objection to another banking institution operating in the same building with a national bank.

11, 18. Yes.

19. I presume the appointment of national-bank examiners is not influenced by partisan preferences. Politics in any form should not be permitted to enter into the matter. The Government should select only capable, conscientious examiners, pay them good salaries, and should dispense with the services of those who are not fitted for the position.

OCTOBER 9, 1908.

C. F. McGrew,  
Vice-President the Omaha National Bank,  
Omaha, Nebr.:

Replying to your circular letter of the 26th ultimo, the writer would respectfully submit the following in reply to your questions and suggestions contained therein. The writer filled the position of national bank examiner for several years, and many of these questions were called to his attention at various times.

1. The rules of civil service, as to examination and appointment of examiners, ought to apply; but in our opinion, examiners should be subject to removal at any time by the Comptroller of the Currency without question.

2. There is much to be said in favor of a per-diem basis, but believe better service will be obtained under the present fee system.

3. If a general assessment is made, it certainly ought to be placed upon the gross assets, as the sum total practically determines the amount of labor to be performed in each bank by the examiners.

4. Have been personally urging the Comptroller for some years to appoint assistants to all examiners in reserve as well as central reserve cities.

5. Did you ever hear of any loss occurring by reason of the appointment of an examiner as temporary receiver? In fact, if every examiner under appointment since the enactment of the law had been required to give a bond, would there ever have been an action brought on one of them? In our opinion, it would only mean a profit for the surety companies.

6. If section 5200 were enforced in spirit as well as in letter, it would appear to be very comprehensive. Experience shows that as a rule excessive loans, unless made to some corporation or business in which the officers or directors are interested, very seldom show a loss or embarrass a bank. The Comptroller now has greater authority than any other officer in the Government, excepting none, and would advise careful consideration before increasing it. Directors and active officers of a bank should undoubtedly be placed in a different class from general creditors. If not already held responsible under the law, the directors of a bank should be held personally responsible for any loss that might occur by reason of an excessive loan. If such a liability was plainly established by law, we believe it would have a greater effect on preventing excessive loans than any other rule.

7. When it becomes necessary to levy an assessment upon the shareholders of a going bank, the first requisite to prevent a loss of its business is to keep the general knowledge of such conditions from the public. If the law would provide that in case of an actual impairment of capital to an amount exceeding 25 per cent the Comptroller would have authority to close the bank unless such impairment was made good within ten days, we think it would prove both salutary and effective. If the capital is impaired to a greater extent than that, it is unfair and dangerous to the public to allow the bank to continue in operation, and any depositor who is beguiled into placing his money in a bank whose capital has been impaired to that extent or greater should have a cause of action against the Comptroller.

8. No active managing officer of a bank or member of a discount committee should be allowed to become personally indebted to a bank in any sum whatever.

9. The law should plainly provide, as it was undoubtedly originally intended, that only individuals may hold stock in a national bank. To permit a corporation and other associations to own and hold such stock is a farce, and unfair to solvent individuals who are owners and holders of stock in the same association. The law should provide that all stock which may be acquired by another association or corporation shall be sold and disposed of within a comparatively short period of say six months. It should also require in the case of the decease of a shareholder that his stock shall be transferred to the heirs or devisees within twelve months or a shorter period. No national bank should be permitted to hold the stock of any other association taken in satisfaction of a debt beyond a short fixed period.

10. It would depend entirely upon the conveniences provided. An examiner who could be deceived under such circumstances would likely be deceived under many others.

11. Each examiner ought to be provided with a duplicate copy of the latest report furnished to the department by the bank under examination. Usually a copy of the latest report is found in all well-regulated banks, but its correctness would depend upon the veracity of the bank officers. It would, no doubt, be much cheaper to the banks to furnish a duplicate than to have it made by the civil-service employees at Washington.

12. So long as the law permits the loaning of money to the active officers and managers of banks, we believe the provisions of section 5211 are sufficient.

13. No.

14. Yes.

15. All owners of stock should be held liable as shareholders for a period of six or twelve months after they have disposed of the stock, when it can be shown that the bank was insolvent at the time the stock was sold, whether known to the shareholder or not; and the purchaser of the stock should also be held liable from the time he became the owner of the same; the rights between the seller and the purchaser of the stock to be settled in a separate suit. This, we believe, would have a great tendency to prevent any but bona fide transfers of the stock.

16. If the Treasurer would insist upon remittance in full for all redemption of circulation by draft upon New York, and the payment of the same to the subtreasury before shipping the redeemed or re-issued currency, we do not see how it would be possible to meet with a loss. This was formerly the rule, but was afterwards changed in some instances, although not in all. There should be no excuse for the Treasury losing a cent, or being out the use of a dollar in the redemption of national-bank notes. If any loss has occurred or likely to occur, it is entirely the fault of the officials of the Treasury Department.

17. The law should be compulsory upon banks to issue at least one-third of their circulation in five-dollar notes, and the balance in such size as they deem best.

18. To answer this question would involve too much of a discussion of guaranty of bank deposits.

The foregoing is respectfully submitted only as the personal views of the writer, without prejudice.

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NOVEMBER 23, 1908.

Oscar J. Smith,

President the First National Bank of Elko,

Elko, Nev.:

Answering your circular letter of September 26, 1908, entitled "Suggested changes in national banking laws," I have to say, taking your queries up in numerical order, and without repeating the question:

1. The present method of appointing examiners should be continued. Do not think they should be put under civil-service rules in any manner.

2. Examiners should be paid salaries and allowed expenses, and the banks taxed enough to provide a sufficient fund for the purpose.

3. Think the assessment should be made on capital and gross assets.

4. Think there should be a force of assistant examiners, and that an assistant should accompany an examiner everywhere—to the country banks as well as to the large cities. Also that examiners be compelled to complete their reports before leaving the bank and read the same to the bank's officers, at least upon request. In my opinion a bank is justly entitled to this information.

5. Examiners should be compelled to give bonds for the protection of the Government and the bank, and the bonds should be conditioned so that examiners and their bondsmen could be held liable for false or misleading reports, whether the same be in favor of or against the bank.

6. The Comptroller seems to have taken the law into his own hands in this respect. See article in The American Banker of April 4, 1908, page 1141, by Hon. T. P. Kane, deputy comptroller.

I do not think the powers of the Comptroller should be enlarged unless a system of deputy comptrollers in charge of special and specified districts should be established, my idea being to have deputies who are acquainted with the local conditions governing banking. We can not conform to New York or Boston customs here in Nevada and compete with state banks, and there must be other sections of our country with customs widely differing from those of New York, Boston, or Nevada.

I do not see any reason why directors and officers should be placed in a different category as creditors of failed banks, but I do not care.

Whether or not a penalty should be enforced against officers or directors responsible for violations of the Comptroller's regulations should depend upon the circumstances of the case.

Perhaps section 5200, United States Revised Statutes, could be made somewhat clearer as to just what "commercial or business paper" is.

7. I have no plan to suggest nor can I think of one that would give satisfaction; but, why should those creditors be preferred anyway?

8. I think that every loan to an officer or director should be passed upon by the full board at a regular meeting. I do not think any difference should be made between officers and directors, and I also think that loans should be made to either (especially in country banks) in the manner stated and to such extent as the board might think wise, within legal limits of course.

9. Can Congress prevent a corporation not engaged in any interstate business from holding shares in a national bank if the laws of the State where such corporation is domiciled permits it to hold such shares? Am inclined to think such an act of Congress would be unconstitutional. Suggest the opinion of the Attorney-General be secured. Do not think the evil complained of to be of sufficient volume to justify an act of Congress anyway.

10. No. In such cases it could be easily arranged with state bank examiners to examine both institutions at the same time.

11. Yes.

12. No. If plan named in my answer to No. 8 is followed this would be entirely unnecessary and would work a hardship to country banks in places where state banks are not required to publish similar information.

13. No. Civil-service appointees are about the "bummest" lot ever. They can pass good examinations, but that is about all they can do. They lack the necessary wisdom to apply any book knowledge they may have, in a very considerable percentage of instances.

14. Yes.

15. Yes. Have no sympathy with a "welcher;" soak him.

16. Never could see any sense in this deposit. The currency is amply protected by the bonds deposited, and in my opinion banks should simply be compelled to remit for redeemed currency before the new currency is sent them and do away with the deposit, and also with such disputes.

17. Never could see any sense in limiting the amount of five-dollar bills. In my opinion a bank should be allowed to take out its entire circulation in any denominations it may prefer.

18. Yes.

*Recommendations.*—To my mind the banks of the country at large have made a magnificent record for themselves during the late panic. What we need is, not more regulations for the banks, but a currency system adapted to the needs of our country. Had such a system as that in vogue in Canada been in force in the United States we would have had hardly a failure, and probably no panic. Under such adverse currency conditions the banks of the country have labored with comparative success, and what they need more than anything else is to enjoy the workings of the motto "Let well enough alone" as to them, but get a currency system that will be the best in the world, instead of the very worst among civilized nations.

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OCTOBER 27, 1908.

J. W. Plume,

President Manufacturers' National Bank of Newark,

Newark, N. J.:

Your circular of September 26 came duly to hand. I regret that absence from home has prevented an earlier reply. I will now reply to same by numbers.

1. Appointment of examiners should be continued as at present, because the Comptroller of the Currency is responsible for examiners. I do not think it is desirable to apply civil-service regulations to bank examiners.

2. It is desirable to change paying of examiners to a salary and expenses. Examiners are human and it is perfectly natural where pay is determined by the number of banks examined that such examination should be hurried.

3. I think the law should be changed so that the fund to pay examiners should be based on the capital, surplus, and undivided profits of the bank.

4. It is desirable to provide a force of assistant examiners, provided they are selected for the duties which they are to perform.

5. Examiners acting as temporary receivers should give indemnity bond, provided the Government or the bank pay the expense of same.

6. This is the most dangerous section in the act. The law should be amended so that no bank can loan to one person or firm more than 10 per cent of the capital and surplus.

That is as large a liability as any one person or firm should create in any bank.

The exception should be stricken out. How is a bank officer to know whether the bill of exchange is "drawn in good faith against actually existing values?"

Suppose a large and valued depositor, or a stockholder or even a director, presents a note or notes, and the question is asked whether "drawn in good faith against actually existing values" and the answer is given in the affirmative, the answer may be true and still the "good faith" or "actually existing value" may not be such as the law intends. What can the officer do in such case? It is the worst feature of the law, and the one most abused, and the one most destructive of good and safe banking.

It seems to me there can be no doubt that the Comptroller should be given authority to take action when in his judgment loans are being made in excess of the limit indicated by prudence and safety.

Directors and officers of banks should not be placed in a different category from general creditors. A penalty should be provided for violation of such changes as may be recommended enforceable against officers and (not or) directors responsible for such violation.

7. Yes. Such deposits should be protected by being considered special deposits and treated accordingly.

8. Employees should never be permitted to borrow money from the bank where they are employed. Officers and directors should be allowed the same as other people. There should be no difference between officers and directors. Because there have been some dishonest officers does not imply that all officers are dishonest, and oftentimes officers' accounts and loans are the most desirable in the bank.

9. Some of the best stockholders in this bank are corporations, and I do not think they should be prevented from holding stock.

10. It is desirable that only one banking institution should be located in the same building, for the reason stated in your circular.

11. There can be no objection to making reports to the Comptroller in duplicate if, in so doing, it will prevent fraud.

12. It would be very unwise to publish the liability of officers and directors. If the amount were small, the public would say they did not have confidence in their bank. If the amount appeared to them to be large, although they might know nothing about it, the public would say they were using the bank. There is already enough unjust criticism against corporations.

13. I would not let civil-service examinations or regulations enter into the appointment of deputy comptrollers, but simply the peculiar fitness for the position which they are to fill.

14. False reports to the Comptroller should be a misdemeanor.

15. Yes.

16. Bonds deposited for circulation are not security for creditors of a bank other than note holders. I think sale of the bonds is the only remedy to be applied in this case.

17. Yes. Should be increased to two-fifths or one-half.

18. Yes.

19. No.

I would recommend that section 5147 should be amended by striking out the words "and will not knowingly violate, or willingly permit to be violated any of the provisions of this title."

Take the matter of reserve. It is an impossibility for a bank (especially in a manufacturing town) not to fall below its reserve sometimes. For instance, the pay rolls on a Saturday can not always be estimated, and such drafts will sometimes bring the reserve below the legal limit.

Take the question of overdrafts or overcertification. Suppose a valued dealer happens to be a little short on a check or note presented to the bank, would it be right to decline to certify such item or refuse to overpay the account? Of course it would not, and no sane banker would do it.

Still, it is a violation of the law, and the president who approves it or the director who knows of it are both violators of their oaths.

This should not be and Congress has no right to place them in such position.

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OCTOBER 28, 1908.

J. W. Plume,  
President Manufacturers' National Bank of Newark,  
Newark, N. J.:

As national-bank notes are redeemed with legal-tender notes, and legal-tender notes are counted as currency reserve by national banks, why can not the law be so amended that bills of other national banks can be counted as part of reserve? The national-bank notes are secured by a deposit of United States bonds with the Treasurer of the United States, and while it would be manifestly improper for a bank to hold its own notes as part of its currency reserve, there should be no objection to holding the notes of other banks. If there is any objection, then the 5 per cent redemption fund should be a gold fund.

This bank has a capital of \$350,000 and a circulation of \$350,000. In 1906 this bank redeemed \$487,150 of its circulation, being its full circulation and 40 per cent more. In 1907 this bank redeemed \$285,652 of its circulation, or 80 per cent of its whole circulation.

If the redemptions for 1908 continue in the same proportion for the balance of the year, they will amount to more than 100 per cent.

This large redemption is due to the fact that national-bank notes, immediately upon receipt by the banks of reserve cities, are sorted out and sent to Washington for legal-tender notes, which count as reserve. If we could hold the notes of other banks, there would be no necessity of this rushing national-bank circulation to Washington as soon as received. As national-bank circulation, including the interest on bonds deposited (at its best), pays less than three-fourths of 1 per cent, it would be a great relief if it could be counted as reserve.

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OCTOBER 6, 1908.

L. F. Spencer,  
Cashier First National Bank,  
Ridgewood, N. J.:

In accepting your invitation to reply to the questions put in your circular of September 26, 1908, the writer trusts it will be borne in mind that he represents a small suburban bank, and does not expect that his views can be of much value to the committee, but in the sup-

S. Doc. 404, 61-2—8

position that in the aggregate these replies may, perhaps, in some measure be accepted as a sort of vote on the questions at issue, and in that way possibly carry some weight, he begs to submit the following:

1. It is generally understood that bank examiners are frequently appointed through some personal influence, which, of course, will not always secure the men best qualified for the work. If their duties take them to large banks, they have assistants. These assistants are frequently chosen from the examiner's circle of friends, and as their duties are routine in their nature, requiring little or no initiative, they may not be the sort of persons best adapted to succeed the examiner in case his place should become vacant. Therefore it is the opinion of the writer that the bank examiner should be chosen from a class who, by long experience in the actual workings of a bank, are familiar with all its details and know where to look for the weak spots. In short, he should be an expert in banking, able to detect readily any bad methods or loose practices. Then if his assistants are bright men, chosen not simply because they need a job, they will be promising material from which to recruit new appointees.

2. From the standpoint of a small bank the stated-fee system is preferable, because the average man would be careful not to waste his time, as he might if paid by the day or was on a yearly salary.

3. Capital and surplus.

4. If assistants were selected in the first place because of their ability and experience in banks, I would favor recruiting from examiners' assistants, in the belief that experience gained under the guidance of a competent examiner would fit an assistant for independent work better than any other kind of school.

5. It would impart confidence to have the receiver placed under bonds.

6. There should be a limit, and the writer would suggest 20 per cent of capital and surplus as the limit. But one category. Make the rules specific and fix penalties for violations.

7. Might as well close the bank at once as to announce to the public that its capital is impaired, for depositors would immediately withdraw their money.

8. Would adopt something similar to section 15 of the laws of New Jersey relating to trust companies, the substance being that no officer or employee of a bank can borrow any sum until after his application has been approved at a regular meeting of the directors.

9. Hard question to handle. If laws were made to prohibit other corporations from holding bank stock, the officers of such companies, or other powerful holders of the stocks, could accomplish personally what is objected to as corporation acts.

10. There should not be more than one bank in the same room; but to prohibit more than one in the same building, with partition walls between them, might be a needless hardship. There should be better ways of preventing collusions such as the question suggests than by passing obnoxious laws.

11. I can hardly see how a bank officer would dare take the risk of showing an examiner a false copy of a report that had been sent to the Comptroller, because of its easy detection and the seriousness of the consequences; and while a duplicate report would add much labor in the aggregate to both the Comptroller's department and the banks, yet if such instances of falsification are frequent, or, rather,

if they are not rare, of course the possession by the examiner of a duplicate copy would prevent that kind of fraud.

12. Such details published in a local newspaper would often create a wrong impression and cause gossip that would be hurtful to a bank, when the facts, if understood, would be approved by anyone capable of judging.

13. Yes.

14. Yes.

15. If it could be clearly proven that a stockholder of a losing bank (or any other corporation) had loaded his stock on a misinformed party, he ought perhaps to be compelled to take it back; but a law providing for such cases should be carefully drawn or injustice might easily result.

16. When the United States Treasurer notifies a bank that a certain amount of its notes are awaiting redemption, his instructions are specific, and the bank ignoring them should be made to suffer the consequences as at present provided. The Treasurer might, however, retain the bills he has notified the bank he is about to send until they have been remitted for, as he does not always do at present.

17. Yes; unquestionably. Would like all ours in fives.

18. By all means that should be done, and so eliminate the dread of waste and shrinkage of assets that usually result from long receiv-  
erships.

19. Having to say regarding the Comptroller's office, think it would be wise to modify to some extent the laws relating to mortgage security for loans by national banks. Such a change, well guarded, would often prove safely advantageous to a bank and a great accom-  
modation to its customer.

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OCTOBER 15, 1908.

H. J. Anderson,  
President First National Bank,  
Alamogordo, N. Mex.:

In reply to your circular letter of September 26 last, I take the liberty to give such views as may be pertinent to the suggested changes in the national-banking laws, and in this connection inclose herewith a clipping from the Bank Notes, while, although I do not entirely agree with the views of the writer, may be of some interest to you in the matter. No system of bank examinations can ever be perfect, and it is a grave question whether the examiner should not confine himself strictly to see whether the bank is managed in compliance with the laws, and not attempt to enter too much into the question as to the prudence and ability of the bank officials or what should, in their judgment, be best for the proper management of the bank. There can be no question but that bank examinations are good and necessary for the benefit of all concerned, but no man, be he ever so well versed in banking, can apply the same rules and restrictions to a bank in one locality as might be applicable to a bank in some other part of the country; local conditions, manner of payment, and the way of doing business have all their separate influences and can not be avoided. Principles of good banking are the same all the world over, but reliance must and should be placed upon the officials managing the bank. If they are not honest and intend to commit a fraud or defalca-

tion, they can do so in a moment after the bank examiner has left, or in the periods between his visits, and oftentimes it is so concealed that it takes months of the most rigid and expert examinations to find it out. A large percentage of the defalcations that come to light are discovered by accident through the absence of the officer who committed the crime and whose books happened to be examined at some particular point during his absence. Some thirty odd years ago the Comptroller's officials assumed that they had enough to attend to when they instructed the examiners to see that the banks lived up to the letter of the law, and that in a general way their affairs were well managed by capable officers, and the directors were men of wealth and good standing in the community and gave the necessary attention to the bank's affairs at regular intervals. While of late years the number of banks have greatly increased, yet the percentage of those that have failed is no greater now than it was then. The honesty of the men managing the institutions is as high, and it does not seem as if the necessity existed for close scrutiny into the private and personal management of the bank except where abuse of management is evident, than has been the case from the beginning of the system.

Every honest bank official prefers that his bank be examined by some one competent, and it is to be hoped that some changes will be made in the banking laws that will bring about the desired result of as near a perfect examination as can be made, "as a means for closer and safer relations between the bank and the public." In regard to the questions you ask, I reply as follows, namely:

1. It would be much better to make the appointment of examiners of national banks subject to civil-service rules. The examination should, in all cases, be made by one versed in practical banking, and the civil-service examination should include this feature in full detail. The Comptroller of the Currency alone should have the power to approve the appointment of examiners. It should be done without political preferment, and whenever an appointment is made it should be made from men in the locality of the banks to be examined, so that a fairer knowledge could be obtained of the conditions and character of paper and other assets that the banks might hold. I do not think that the appointment should be made for any fixed tenure in office, for the class of men that are appointed should be retained where their services were valuable, and not subject to change by any period of appointment.

2. I do not think the salary or per diem basis would answer as well as the fee system.

3. The pay of the examiners should be based upon a percentage or fixed sum of the capital and total assets of the bank. It very often happens that a bank of small capital with large assets pays no more under the present system than one of the same capitalization and less assets. If the compensation is based upon the total capital and assets it would be a fairer way and give the examiners a sufficient fee to make a more careful examination and each bank would pay an amount proportionate to the work done and the amount and value of the assets.

4. In cases where a large bank is to be examined it would be desirable to provide a force of assistant examiners and of sufficient number to recruit the force of examiners from these assistants.

5. Examiners should not be kept in charge of failed banks, acting as temporary receivers, longer than is absolutely necessary; and it is not desirable, in my judgment, to require them to give a sufficient bond for the protection of the Government, as their services should only be required in anticipation of the speedy appointment of the permanent receiver. As a rule no examiner should be appointed receiver of a bank that he has examined unless it is clearly shown that it was through no fault of his examination that such bank failed and became insolvent.

6. The discount of bills of exchange, etc., and the amount to be held or purchased by a bank is one of many things in banking that should be left entirely to the discretion of the officers and directors of the bank. It is a matter that is always under the admonitory supervision of the Comptroller and examiner, but the amount that should be held would depend so much upon the many circumstances affecting a bank that it is better to have it unlimited, assuming, as a general rule, the management of the bank would not go beyond a safe limit.

8. The present limitation of 10 per cent of the capital stock and surplus should apply as well to the officers, directors, and employees of the bank, provided they are financially responsible, as well as to any other customers. Any honest director or officer should be allowed to borrow from his own bank. It would probably be much worse if he should borrow outside, as he would be more likely to exceed the legal limit with many outside banks than with his own.

9. It seems to me unnecessary to provide against the holding of shares of national banks by other corporations.

10. If the control of another banking institution in the same building is held by the same parties as those of the National Banking Association of any financial institution, legislation should be recommended preventing it. It should also be forbidden for officers or directors of a national bank to be officers or directors of savings institutions or national, state, or private banks located in the same building; in fact, it would be desirable if by law no one could be a director of another national bank or other financial institution located in the same city, town, or village.

11. Let both the reports be sworn to and made in duplicate, one report to be retained by the bank and the other report sent to the Comptroller of the Currency, and one copy furnished the examiner by the Comptroller, if thought fit when the examiner is about to undertake the examination of the bank. Have at least seven reports yearly called by the Comptroller. An officer of the bank is less likely to swear falsely to a report than he is to attempt to deceive a bank examiner, and this number of reports would give the Comptroller and the public more extended information as to the condition of the bank.

12. It is not necessary or wise to show the individual liability of the officers and directors to the public. They are shown now on the report made to the Comptroller of the Currency, and to make it public would only excite discussion and possibly needless alarm.

13. It seems unnecessary that an additional deputy comptroller should be appointed, unless it is that there is too much work for one man holding that office. The department, I believe, since its organi-

zation has had but one deputy, and they have filled the office suitably and well. The appointment of Comptroller and deputy comptroller should be made solely either by the President or the Secretary of the Treasury. The Comptroller's office should be controlled as separate and distinct from any other branch. In this connection it is suggested that the clerk (or clerks) who is detailed by the Comptroller of the Currency to oversee and make the examination of the reports of the national banks should be a man who is financially well educated and who has some practical knowledge of banking, so that the best judgment outside of actual banking employment could be used in scanning the reports of the examiners, as well as those made by the officers of the bank.

14. The law should be extended to apply, making it a misdemeanor, with a severe penalty, for any of the officers or employees of a bank to make false entries with intent to deceive in the reports made to the Comptroller.

15. If I am not mistaken, the law already makes it possible to enforce the liability of shareholders who have foreseen the insolvency of the bank in which they own stock and have transferred that stock to escape liability. (See Anderson, Receiver, *v.* Philadelphia Ware House Company and Stewart *v.* Hayden, pp. 57-59, Pratt's Digest of National Banking Laws.)

16. I do not know that I fully understand this question, as to whether it applies to circulating notes in transit or the deposit of the 5 per cent when additional circulation is taken out. In either case I should think the law might be so amended as to require the money to be paid in before the circulating notes were forwarded.

17. The law should be changed so as to increase the amount of notes of the denomination of \$5 which a bank may have outstanding to one-fourth of its total circulation.

18. You use the term "liquidating" banks as synonymous with "failed" banks. A bank in liquidation is controlled by its officers and can not be hurried, unless some time is fixed by law for it to be wound up or else a receiver appointed. With failed banks where a receiver has been appointed it is difficult to fix any time, so much is dependent upon the diligence of the receiver and his attorney and his ability to turn the assets into money. As a general thing, receivers who are paid a percentage are apt rather to hurry matters than to delay them, and where the percentage would be too small a compensation for a skilled man and a salary is paid him the old custom of reducing the salary of the receiver and appointing him to another bank and lessening the compensation for the first bank seems to me as good a plan as any. I can not see how any provision of law would entirely overcome this difficulty, which I presume does not exist except in very few cases.

This letter has been dictated hurriedly, without much previous thought, and I trust you will overlook any of its many deficiencies. Kindly treat the matter as impersonal and confidential.

OCTOBER 14, 1908.

R. J. Palen,  
President, First National Bank,  
Santa Fe, N. Mex.:

I beg leave to submit the following in reply to your circular letter of September 26:

1. I think the present method of appointing examiners should be continued. The examiners should be assured of a permanent tenure as long as they are capable and active, as a matter of course, but I do not think the civil-service regulations should be applied to their tenure.

2. The examiners should be paid a salary sufficient to secure the right kind of men. I am opposed to the per diem pay.

3. Basing the assessment on banks to pay examiners on capital and gross assets would be an improvement, as it frequently happens a bank with a small capital does a very extensive business.

4. It would be desirable to have a force of assistant examiners to work in cooperation with examiners in large places, and to succeed examiners when vacancies occur.

5. Examiners in charge of failed banks for any time other than temporary should give bonds the same as required of receivers.

6. Some limitation should be placed on the amount of discounts of bills of exchange and commercial paper for single or allied interests, so that this privilege should not be susceptible of abuse. As to just what amendment would most satisfactorily effect this I could not say until I have given the subject more careful and prolonged consideration. I should hesitate to give the Comptroller free and unlimited authority to take action on his judgment in such cases. I do not think officers and directors should be placed in a different category in these cases except where they had clearly abused their positions by extending to themselves undue consideration. A penalty should certainly be provided for violation of such changes as may be recommended, enforceable against the officers or directors responsible.

7. It does not seem practicable to me for the Comptroller to take action for the protection of depositors pending the repairment of an impaired capital, except, perhaps, by taking all deposits during that period as special deposits. This could not be kept concealed and would advertise the weakness of the bank, possibly cause a run and the appointment of a receiver, or if it escaped such serious results it would suffer a reflection on its solvency from which it would take a long time to recover.

8. I would apply to the borrowings of officers and directors of a bank the same limitations as the law and the exercise of good judgment apply to all borrowers. All loans to officers or directors should be made only by the board in regular meeting assembled. I confess I am unable to see why an officer or director should not be permitted to borrow from his bank when he applies for the loan to a full meeting of the board and submits the collateral or other security he is prepared to offer to his associates. To shut them out, directors especially, from this privilege is likely to result in narrowing a choice of directors to two classes: Those so rich they have no occasion to borrow; second, those too poor to borrow regularly, who are ready to take their chances of the detection of any irregularities in their offi-

cial conduct. I doubt whether the first class would care to incur the labors and responsibilities of the positions in the face of all this proposed minatory legislation simply pro bono publico, and I am quite sure the second class would not be desirable. In my judgment there is a good deal of "rot" in this endeavor and expectation to get a combination of the saint and the acute business man to act as bank directors by exposing them to the pains and penalties of the criminal law, and at the same time excluding them from all chance of getting any accommodation from the banks with which they are connected.

9. It would not be wise, in my opinion, to provide against the holding of national-bank shares by other corporations, except when taken for satisfaction of debt. The evil against which such a provision is intended to operate is one which can not be successfully overcome without creating other and greater troubles. There are so many corporations which can in the regular line of their business naturally hold bank shares as an investment or for speculation that it would prove a harsh restriction to deprive them of that power, and unnecessarily limit and restrict the negotiability of bank shares. It is true that the double liability may in some such cases prove a nullity, but it also frequently happens that the double liability of the individual shareholder proves a nullity. These are the natural vicissitudes of the business, like summer's heat and winter's cold, and I doubt if they can be entirely prevented by legislation.

10. I do not think that the operation of another banking institution in the same building with a national association is so undesirable that it should be prohibited. The evils resulting from such contiguity could as well occur if the other banking institution was in a near-by or adjoining building. It is, of course, possible that such a use of securities to deceive an examiner could be made, but I do not think it would be prevented by legislation.

11. I see no objection to the requirement of duplicate reports as suggested.

12. In my judgment it would not be wise to give in published reports the collective liabilities of officers and directors. In cases where the total was large it might cause unfavorable comment, and as the full individual details are given in the reports to the Comptroller by the banks and by the examiners, I see no good purpose such publication would serve.

13. I do not recommend that the deputy comptrollers authorized by the law should be appointed by the secretary as a result of civil-service examinations. I consider that these officers should be selected for qualities and abilities which no civil-service examination can indicate.

14. I see no objection to making the law relative to false entries apply as well to false reports with intent to deceive made to the Comptroller.

15. It seems difficult to change the law so as to enforce the liability of shareholders who, foreseeing the insolvency of a bank, sell their shares to escape liability before assignment is made, except in those cases where the sale is made almost coincident with the failure of the bank or a limited time before. It might be advisable to place a time limit to the validity of transfers before insolvency is declared, with right to the transferrer to show that the sale was without knowledge of any prospective insolvency.

16. I think the Comptroller should sell the bonds and suspend the issue of additional circulation until the bond deposit was restored to the minimum. This could be detrimental to the parties only when the bonds were below the figure necessary to secure the Government in the redemption of the circulation, and in such a contingency the law already provides a remedy. The treasurer, in such cases, might be authorized to draw on the offending banks with a proviso if the draft was not honored a receiver could be appointed. Concerns offending in this matter subject themselves to extreme measures.

17. I think it would be a good idea to entirely repeal the present limitation on the issue of five-dollar bills. There was a reason for it once which no longer exists, and the limitation should be abolished.

18. It would be desirable of course to secure the promptest payment of the depositors of liquidating banks. I confess, however, that I do not see how this can be effected except it may be by the establishment of some central fund from which loans could be made to be returned from the conversion of the assets of the liquidating bank, the probabilities of such conversion and the propriety of such advances in each case being passed on by the custodian of the central fund.

19. No, I have no suggestions to make relative to changes in the organization of the Comptroller's office. That I consider out of my range and province.

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OCTOBER 8, 1908.

Matt C. Ransom,

Vice-President the Farmers National Bank,

Malone, N. Y.:

Agreeable to your circular letter of September 26, I make answer to questions therein contained, in the order propounded.

1. (a) Continue as at present. (b) No. I think the Comptroller should have power to appoint, dismiss from service, and be held responsible, within reasonable limits, for the class of work done by the examiners.

2. No. You must trust men to a reasonable extent, and either method is open to possible abuse.

3. On capital and gross assets.

4. Yes.

5. Yes; a surety company bond, the cost of which shall be paid from out the assets of the bank.

6. (a) I would limit the amount of such exempted paper to say 50 per cent of the amount legally loanable as direct loans. (b) No. (c) No. (d) Yes; as relating to those actually in charge of the bank's affairs, or directly and knowingly participating in the given act of violation.

7. Yes; by a surety company bond furnished by the directors, or their individual bond, in the discretion of the Comptroller.

8. (a) I would make no distinction or different limitation, except that loans to officers or employees should have the approval of the board of directors. (b) Yes; as above. (c) Yes; if he is worthy of credit, and with the approval of the board of directors.

9. Yes.

10. No. You can't make dishonest men honest by legislation, and if banking laws are made so drastic that one would think they were made to regulate the business procedure of a lot of would-be criminals, self-respecting, honest, and capable men will go out of the banking business and the attempted cure will prove worse in results than the disease, if there is such to any appreciable extent.

11. In view of your statement of facts, yes.

12. No. I see no benefit to be derived, while harm might result. The volume of loans to officers and directors might seem large to an outsider, when, as a matter of fact, they were the best and most desirable loans the bank could have, and no good could be accomplished by publishing, particularly in small and gossiping communities, how much the directors and officers owed the bank, while, on the other hand, it might needlessly and improperly shake some individual's confidence in the financial strength and standing of the bank officials and directors, which same is vital as relating to the given bank and its legitimate prosperity.

13. Should be appointed by the Secretary of the Treasury and subject to civil service examination or regulation, providing such can be made a reliable test of a man's fitness for the position.

14. Yes.

15. Yes; if confined to stockholders who are directors or officers and such other stockholders as the proof shows had actual knowledge of the bank's condition.

16. I think so, but am not prepared to suggest a method.

17. Do not think there should be an arbitrary limit. Each bank knows best the requirements of the given locality.

18. Yes.

19. No.

I would recommend as little new legislation as possible and only such changes in the present laws as seem imperative. To the extent that banks are officered and managed by men of honesty, integrity, and capability they will be reasonably successful and solid institutions and not otherwise. These qualifications can not be produced or obtained through the process of legislation, and the moment it is attempted to make machines of such men through legislative enactments they will forsake banking and seek pursuits that will give greater scope for such qualities to produce progressive and successful results. What would work well in one locality, or as relating to one institution, might do great injury in and to another. Trained men and minds are much safer regulators of financial affairs and business generally than statutes enacted by men who often know very little of the subject under consideration, as was well demonstrated by the many ridiculous measures that were recommended last winter, or during the last session of Congress.

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OCTOBER 27, 1908.

Herbert L. Griggs,  
President the Bank of New York,  
New York:

I beg to acknowledge receipt of your circular dated September 26 asking suggestions on various points in connection with possible changes in the national banking laws.

Replying to several of the sections I would say:

1. Should not change the method of appointment.  
2. Should make any arrangement that would get first-class men at the head of the various districts, giving them ample time to analyze the figures prepared by their assistants after examining a bank and comparing with previous reports of the same bank. Would also have the head examiners take the responsibility of suggestions to the Comptroller. I should not have the chief examiner do any physical examining, but simply analyze and compare the figures submitted to him by competent assistants, make suggestions to the Comptroller, and see that the Comptroller's recommendations to the banks are carried out. Make him the personal representative of the Comptroller for his district. I would also have him keep in touch with the officers and chief committees of the clearing houses in his district, so that proper measures could be taken by the clearing house to correct any loose methods at once, before they have done serious damage. I should not incorporate this in the law, but make these points part of the regulations issued by the Comptroller of the Currency to the examiners.

6. It is important to bear in mind that national banks should not be unduly hampered in comparison with state banks in carrying on their legitimate business of receiving deposits and moving crops. It should be the duty of the examiner to detect and report to the chief examiner any endeavor to evade the spirit of the law by taking advantage of the exceptions of section 5200.

7. We understand in the event of the impairment of a bank's capital that the Comptroller when he discovers that fact immediately informs the directors of the bank, and they in turn call a meeting of the stockholders, who lay the necessary assessment on themselves, and that if the impairment is not made good within three months after the receipt of the Comptroller's notification to the directors, a receiver may be appointed, etc. It would seem that three months is too long a time to give the directors and stockholders to make up the impaired capital, and the position of the depositors would be protected to some extent if the time was shortened to, say, one month instead of three months. However, the experience of the department will be the best guide as to this. I think the suggestion that late depositors should be given a preference is entirely impracticable.

8. In legitimate banking the best possible customers are those in which the good directors are interested, and I doubt the wisdom of making stringent rules about the borrowing of directors, but should warn the examiners to be on the alert to catch such loans, look into them, and report, not only to the Comptroller, but to the clearing house in that district.

9. Would not make such a limitation.

11. This is a good suggestion.

12. I think it would be very unwise to publish the collective liabilities of the officers and directors. It is the character of such loans that should receive the critical attention of the head examiner and the Comptroller.

13. No.

14. Yes.

15. No.

16. I fear that any measure of selling bonds would excite unnecessary alarm, and I would suggest a tax of 1 per cent per month or any part thereof, where the impairment of the 5 per cent fund is not made good within two weeks. In other words, make a sharp penalty and collect it.

17. Yes. I think it could be increased to advantage to one-half.

We are all looking for very good results from the investigation which is being made by the committee of which you are vice-chairman and appreciate the amount of time which has been given to these investigations.

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OCTOBER 27, 1908.

Herbert L. Griggs,  
President the Bank of New York,  
New York:

Referring to the letter which I sent you last week in reply to your printed inquiries, I hope the committee will realize what a hold the deposit-guaranty idea has taken in the western country and that they will appreciate that unless something is provided by Congress in the way of better examinations to prevent the continuous failures of national banks that the question is likely to come up regularly. The contention of Mr. Bryan that if money is deposited with the Government, the Government should be obliged to make it good, is catching, and while you and I know that the measure would result in lowering the standards of banking instead of raising them, still every possible step should be taken to quiet down the clamor and make Bryan turn to something new four years from now.

I feel that the efforts of the committee should be to make deposits safe through making the national banks safe, and to that end that the examinations should be more thorough. For instance, in the case of small new banks, to see that the paid-up capital is not provided by discounting the notes of the stockholders. We must expect that new banks will be started by honest but inexperienced men and they should be educated to what good banking paper really is—something that will pay itself off at maturity without renewal. The efforts to improve the position of national banks should be directed almost exclusively toward seeing that they are run on correct business principles and the directors should not be hampered by irksome conditions, which would make it impossible to get the right grade of men to fill the position. National banks should not be hampered in comparison with state banks, but the standard of examinations should be raised so high that the States will be obliged to raise their own standards of examinations, or otherwise see the deposits leave their institutions for national banks. Let it be understood by each head examiner that he is to be held responsible for the condition of his banks and that when a failure occurs which he could have detected, that he is to be discharged rather than be appointed receiver, which has been the custom recently.

I consider that improved examination is much more important than changes in the currency, although undoubtedly a reasonable measure of elasticity that would work every year is not undesirable, provided it was retired promptly. In this connection it might be wise to consider whether all the national banks should not carry their entire reserve in cash instead of distributing a certain portion of it

in the large reserve cities. As you appreciate, the present arrangement gives us here a plethora of money when it is not wanted and puts a strain on the central banks annually, which might well be avoided. Of course, the withdrawal of this reserve money would be felt in the reserve cities, but it is a question whether it would not be better for New York to depend on its own resources and on what money comes to it legitimately and naturally rather than be used as a dumping ground for superfluous cash when they do not want it.

Any changes in the banking laws should be made with the idea that some day Mr. Bryan will be elected President and that he may appoint the worst possible type of visionary as Secretary of the Treasury. Therefore, it is not wise to put too much discretion in the hands of the department, and while the matter is now under discussion, would it not be well to arrange by law that the monthly surplus of government receipts be put in the national banks promptly, and that the monthly deficit be as promptly withdrawn from depository banks, with a view of making the banks a working, active part of the Treasury Department? Not to abolish the subtreasury system, as it is called, but simply to let the Treasury Department keep in hand a working balance, say of \$40,000,000 for current business, just as it keeps a redemption fund of \$150,000,000 against legal tenders, and that this working balance be kept at about \$40,000,000 by monthly drafts or deposits, as mentioned above.

I believe at present there is a considerable lapse (due to the time spent in examining, sorting, etc.) between the time the Treasury redeems currency sent in to the redemption department and the time the issuing bank remits to make good its 5 per cent reserve fund. Would it not be possible for the redemption department to postpone for a short time remitting for national bank currency in order to cover the average delay in receiving remittances? Thus the Government would not be obliged to advance money so freely. This might have a tendency to keep the banks from sending in currency as freely as they do at present, and thus save the department much work.

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OCTOBER 9, 1908.

W. J. Lorshbough,  
Cashier First National Bank,  
Page, N. Dak.:

In relation to your circular communication of September 26, 1908, I am pleased to give you my views regarding the various matters mentioned, not so much for their probable worth as an index as to the way these matters are looked at by the country bankers.

1. I do not believe appointment of national-bank examiners by Comptroller of the Currency should be made subject to civil-service rules as those rules are now applied. The examinations are too general and not along sufficiently practicable lines to insure the appointment of the best applicants. It is a fact that those who are thoroughly well qualified to answer questions of the character propounded by the commissioner are many times the least qualified for such a position as that in question, and neither in my judgment should the tenure be dependent on civil-service rules, as an examiner may many times merit dismissal without actually violating those rules. If the Comptroller is to make a success of the administration of his office he must be unhampered in the selection of his agents.

2. It is not desirable to change to a salary or per diem basis. The ordinary person working on salary would very materially increase the costs of the examinations without making them any more efficient.

3. Yes. It is unfair that the bank with \$25,000 capital and \$75,000 deposits, with assets around \$100,000, should be required to pay the same as a bank with the same capital and \$500,000 assets.

4. I do not believe the appointment of assistants would better the character of the examinations. With many the assistant would be left to do the work, and the work would probably suffer in consequence.

5. It might be advisable in case of banks of large assets, though I do not believe any trouble has arisen over this question. At least, I never heard of an instance of loss grown out of a failure to give additional bonds.

6. I can see no objection to the law as it now stands and is interpreted by our examiners here. If A holds notes of B, C, and D, and A is indebted to his bank in the full legal limit, I can see no reason why he should not be allowed to sell B, C, and D notes, provided, of course, that no one of them is above the legal limit and they are good. Of course, trouble might arise if the bank took the paper on the faith of A's indorsement and not on the responsibility of the maker, but this, of course, could arise on any class of paper and seems to me a question that is foreign to the intent of the law. If paper taken in this way should prove to be bad or accommodation paper, then certainly the Comptroller should have the right to insist on the same being taken up immediately.

8. I do not believe the officers of the bank should be allowed to borrow. So far as directors and other employees are concerned, I can see no reason why they should be excluded from the privilege, but I believe the examiner should be instructed to investigate this class of loans very closely, and that the examiner should have the right to order them taken up, if in the judgment of the examiner they are a menace to the bank's welfare. It is the abuse and not the use of the privilege that is dangerous.

9. I think the law as it now stands goes to sufficient length in this direction.

10. No. The same thing would be possible if the banks were on opposite sides of the street.

11. I think the making of false reports to the Comptroller, the examiner, or keeping the same on file should be made a serious crime, and should be punished severely. Beyond this I do not think the making of an additional report would safeguard matters further than they are at the present time.

12. I do not understand the question. I think the reports are sufficiently definite in the respect mentioned.

13. No; for the same reasons alleged in the answer to No. 1.

14. It certainly should.

15. Yes.

16. I do not see any way in which it would be possible to enforce the liability save by suit, and I do not believe that would be necessary. The Government is under no danger of a loss, and if a bank should persistently refuse to make good its fund when exhausted it should in the end suffer the extreme penalty.

17. I think it would be better to repeal the entire law, and allow banks to issue notes in such denominations as they may choose.

18. The winding up of a closed bank is necessarily a long process, and an attempt to rush the matter would usually be disastrous to the depositors. This matter would require every mature deliberation, and, while it would seem to be desirable, I see so many objections that I would not care to go on record as in favor of it without further investigation.

T. W. Hill,

Cashier the Cleveland National Bank,

Cleveland, Ohio:

In reply to your circular letter of September 26, 1908, asking for an answer to certain questions proposed by your commission, and also asking for any further suggestions we might care to make regarding the national banking laws, beg to reply as follows:

1. I think the appointing of examiners should be made subject to civil-service rules; also to apply civil-service regulations to the tenure in office of same.

2. No.

3. Yes, on gross assets alone.

4. Yes.

5. Yes, if present bond requirements of the examiners do not cover such cases.

6. By adding a clause after enumerating the items that are excepted from the 10 per cent liability. That all liabilities of this nature to any one person, company, corporation, or firm shall never at any one time exceed 10 per cent of the capital stock of the bank so loaning. If the last-mentioned clause was incorporated I believe the Comptroller would have the same authority for enforcement of same as he now does the present 10 per cent liability, which seems sufficient.

I see no reason why the present law of placing the officers and directors of a bank in the same category as other general creditors should be changed. I would not provide a penalty enforceable against the officers or directors personally for the suggested changes—let the present law govern any violations.

7. Yes; by making them preferred creditors.

8. Same as any other creditor. No; yes.

9. Only when individuals are shareholders in both the bank and corporation.

10. No.

11. I would not see the advantage in making the bank reports in duplicate, for when the examiner's report is made to the Comptroller the two could then be compared and any discrepancies there might be could be brought to the attention of the offending bank by the Comptroller, who, I believe, is the only one authorized to call attention of the bank officials to any irregularities.

12. No; it would tend to depriving the banks of their most valuable directors.

13. Yes.

14. Yes.

15. Yes.

16. No.

17. No; if there is not sufficient bills of the \$5 denomination, require each bank to embrace the opportunity of taking out one-third of its circulation in the \$5 denomination.

18. Not familiar enough with existing laws to advance an opinion.

19. Not being acquainted with the method of organization of the Comptroller's office, would have no suggestion to offer.

In reply to the request for any other changes we would suggest, beg to submit the following:

First, national banks should be allowed to include national-bank bills in their lawful money reserve, for they are secured by government bonds, and since the Government is the only security back of the legal tenders or gold certificates, it seems that one is as good and safe security as the other.

Second, national banks should be allowed to loan an amount not to exceed 10 per cent of their gross assets on real-estate security, but the total amount so loaned and unpaid at any time never to exceed 20 per cent of total loans.

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OCTOBER, 1908.

W. J. Roberts,  
Assistant Cashier, the Mahoning National Bank,  
Youngstown, Ohio:

Please accept the following replies to the various questions contained in your circular letter of the 28th ultimo, in the order asked:

1. We believe in the application of the civil-service rules in federal appointments although our experience with examiners has generally been that they were men of very fair qualifications.

2. Our experience has been that examiners are about the hardest worked men of our acquaintance. It is doubtful in our mind if this would continue under a salary system, nor are we sure that it is desirable.

3. We have always believed that the assessment should be based on assets.

4. In our opinion the service could be improved in the manner suggested.

5. Believe examiners should be required to give sufficient bond at all times, although can not recall any losses that have occurred through them.

6. We believe Congress should approach this subject with extreme caution. There is no better form of investment for a commercial bank than good commercial paper and the law quoted provides that it shall be drawn in good faith against actually existing values. In our opinion the paper of a bank can not be made good by legislation. The measure of its soundness will always depend upon the intelligence and integrity of the management. We know of no failures under the present law where the spirit of it had been followed, with a fair degree of intelligence. We think that officers perhaps might be placed in a different category, but the directors most useful to a bank are those actively engaged in business and thus acquainted with its needs, and as they are necessarily borrowers, to hamper them in this respect would serve to deprive a bank of its most useful men. A strict enforcement of the penalties for violations of the laws should have a strong corrective effect over many of the existing evils.

7. We believe it to be exceedingly bad principle to establish a preferred set of depositors. It would be far better to close the bank pending a restoration of the impaired capital or surplus.

8. It might possibly be advisable to forbid an officer to borrow from his bank, but think it could be done safely with the approval of the board; but as stated above we believe it would be injurious to the welfare of a bank to restrict the borrowing capacity of its directors.

9. The double liability of stockholders has been removed from corporations in this and many other States. Would it not be better to remove it altogether in the case of national banks?

10. No. The object could only be accomplished by forbidding the control of two banking institutions by the same officers. The fact that they are in the same building seems to us immaterial.

11. See no objection, but can not understand why examiners could not have received a correct copy from the department.

12. Can see no good for such publication. The regulation is with the department, not with the public, and might be misconstrued by them.

13. Inasmuch as the Secretary is responsible for the conduct of this branch of the Government, believe he should have a free hand in making the appointments, for which he would no doubt be held accountable by the President choosing him.

14. Had always supposed that it was a misdemeanor to make false reports and believe that it should be so held.

15. As stated above, believe the double liability should be annulled. There is a growing disposition among business men to shun investments in bank stocks for this reason. We can see no justice in the act.

16. We believe the department could easily enforce the payments by imposing payment of a high rate of interest on deferred payments.

17. We see no reason why a bank should not be allowed to issue its notes in denominations best suited to its requirements.

18. We believe it would be desirable to pay off depositors in liquidating banks without any delay, if possible, but are not prepared to say how it can be done by law without imposing an injustice on others. It might be done, however, by imposing a tax, levied to meet the requirements, upon the salaries of Members of Congress. They to be reimbursed by creating an old-age pension fund out of the assets of the banks when liquidated. As this would not affect the large body of voters, it should prove popular with Congressmen and their constituents in all parts of the country.

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OCTOBER 15, 1908.

Geo. C. Sellers,  
Cashier First National Bank,  
Wellston, Ohio:

Replying to your letter of September 26, containing inquiries regarding suggested changes in national banking laws, for brevity will answer these by the question numbers.

1. The writer is not acquainted with the civil-service laws or regulations, but thinks it doubtful that a civil-service examination would show the qualities necessary to make a good bank examiner.

2. We think not. If additional expense should be incurred, the Government should pay it, as it gets a large revenue now from the banks.

3. A change might be considered desirable, but do not think this method would be more so than the present. The nature of the business of a bank should necessarily be taken into consideration.

4. This would be desirable from a purely clerical standpoint, and while bank examiners must have clerical ability, there are other qualifications which are more important.

5. Yes.

6. If there is any method which distinguishes between accommodation paper and business paper, it should be availed of in this connection. Perhaps some change in this section should be made because of the great change in business methods since this statute was enacted. The proportion of purely business paper is much decreased from what it was twenty years ago—or ten years. Officers of banks should certainly be placed in an entirely different category from other borrowers of a bank; perhaps a less stringent measure should also be applied to directors.

8. I think there should be a difference in cases of officers borrowing from their banks than directors. I will say that an executive officer might be prohibited from borrowing from his own bank.

9. I believe it would be advisable to prohibit the owning of shares of national banks by corporations when taken in any other way than that incidental to protecting their business. I believe this will be beneficial not only to banks so controlled but to the general financial condition.

10. This depends somewhat on the kind of financial institution associated.

11. Can see no valid objection to this change.

12. No.

13. No.

14. The writer had always supposed that the making of a false report was a misdemeanor. It would seem to come under the head of perjury, if nothing else. If the law does not cover this point, it should be made to.

15. Yes.

17. Change the law to let the banks have the denominations they want.

18. Yes, if practicable.

19. The writer thinks that the Comptroller's office and authority should be divided into districts, something on the order of the part of the Fowler bill relating to supervision of banks. I believe if the banks of a given district were permitted to choose the supervisory head, with the power of inspection, that it would bring much better service from the examiner and better results to business in general.

I believe it is detrimental to business and to the banks to establish in the Comptroller's office more power than it now has.

A bureau in Washington can not be in touch with conditions and manner of business of the whole country, and neither will politically selected bank examiners be in touch either with these conditions.

The vast majority of the bankers of this country want good, intelligent inspection, and I believe could be relied upon to select deputy comptrollers of their district and these to select their own examiners

for that district. They would also be closer to the means of information regarding any matter of business or credit that they might desire.

OCTOBER 6, 1908.

Frank Craig,  
Cashier, The City National Bank,  
McAlester, Okla.:

Replying to your communication of September 26—

1. I don't believe the appointing of bank examiners should be made subject to civil-service rules. It is necessary that a bank examiner be a practical man and not a theoretical man, and in other lines my observation has been that a theoretical man will often pass a much better examination than a practical man. I do think, however, that the politics of an applicant should not be considered, and I believe that the indorsement of the bankers' association in the State to which an applicant expects to be assigned or in the State of his residence would be worth more and should receive more weight in determining an appointment than the recommendation of a Congressman or Senator. As a rule the bankers are desirous of having the best men appointed and, as a rule, they are in a position to know who would make good examiners.

2. I think the fee system should be abolished and that the examiners should be paid a yearly salary of not less than \$5,000, to which there should be added necessary traveling expenses.

It seems to me that it would be more equitable to base the assessment upon the gross assets of a bank rather than on capital, as the capital of a bank is not always an index of the amount of business it does.

4. I believe that every examiner should be furnished with one or more first-class accountants to assist him in his work, but I do not believe it would be wise, as a rule, to recruit the force of examiners from these accountants, as they seldom have the business experience necessary to make a good examiner.

5. If an examiner merely acts as temporary receiver for a short time, I do not think it would be necessary to require him to give bond, but if he would act as a permanent receiver I think he should give bond.

6. This is a difficult question to answer. If observed in good faith, the law is all right as it stands, but no doubt purchases of paper are often made to evade the law, and it is hard to tell when such purchases are made in good faith and when they are merely evasions. To prohibit the purchase of paper in this manner altogether would very seriously interfere with business, not only of the banks but of the commercial world at large. The law might be amended to require that both the maker of the paper and the indorser to the bank should be responsible. This, of course, would leave a great deal to the discretion of the examiner, but with the right sort of men for examiners I could see no objection to giving him this discretion. I think the Comptroller should in such cases be vested with a large discretion to take action whenever he thinks that any particular line of this sort of paper is getting too large. I do not think directors and officers of the bank and especially directors, should be placed in any different

category from general creditors in such cases. In the West, especially, the strongest and most active men in every community are on the directory of the banks, and to discriminate against them would mean that banks would have harder work getting the strong men on their directories.

A penalty should be provided for enforcing the order of the Comptroller in this regard, and the penalty should be in the nature of a fine against the bank. This sort of a penalty, I think, would bring the banks to time very quickly, while if the penalty is made more severe it would be as many of the penalties in the past, a dead letter, and would not be enforced.

7. I do not believe that depositors, within the three months during which notice has been given to make good impairment of capital, should be protected any more than other depositors, because the mere fact of a notice from the Comptroller to the stockholders does not change the condition of the bank, except, perhaps, to strengthen it, and there would be other depositors who would put their money in after the bank had, perhaps, become insolvent, and before the notice was given, who would have just as equitable a right to share the assets of the bank as those putting their money in later.

8. The borrowing of officers from a bank is a hard proposition. For my part I would be glad to see a law passed making it impossible for any active managing officer to borrow money from the bank, but I believe there would be so much opposition to this that it would be quite difficult to pass such a law. I do think, however, that it ought to at least require a formal vote of the directors to permit the loan of money to active managing officers. I do not think the directors, however, for reasons stated above, should be placed in any different position than other borrowers.

9. The laws of our State prevent corporations from holding stock in other corporations. I believe this is a good law, as I believe the bank stock should be held by individuals and not by corporations.

10. I do not believe that there is anything in this. Unless the two institutions, in the same building, were in the hands of examiners at the same time, working together, there would be the same, and no more, opportunity to switch securities that there would be if the two institutions were in separate buildings. It seems to me that it would be just as easy to switch the securities for several blocks as it would from another room in the same building.

11. I believe it would be a good thing to have two copies of report furnished the Comptroller, or at least to have copy made by the Comptroller and furnished the examiner for his use.

12. I do not think the published reports should show the liabilities of officers or directors. Among ignorant people this might start talk which would do harm.

13. I can not see any particular difference whether the additional Deputy Comptroller is appointed by the President or by the Secretary of the Treasury. I do not think, however, such appointment should be made subject to civil-service regulations.

14. I believe the law should be amended to apply to false reports made to the Comptroller.

15. I believe that a shareholder who transfers his stock after the bank becomes insolvent should be liable the same as if the transfer had not been made.

16. I think the law requiring banks to keep up their 5 per cent fund should be strictly enforced and a penalty in the way of a fine should be provided. This would necessitate a definition of the time when a remittance comes due for this money. As it is now it is a question in the minds of many bankers when they are called upon to remit. For instance, we always remit upon the day we receive our new currency from the department. This is generally about three days later than we get notice of redemption. Sometimes it runs a little longer than this. I do not know whether this is correct or not, but in the bank where I received my first experience this was their practice and I have always followed the same practice.

17. I do not believe there should be any limit upon the amount of five-dollar bills a national bank is permitted to issue. If it desires to issue its whole circulation in fives I believe it should be permitted to do so, which would relieve the famine for small bills very greatly.

18. I believe it would be a wise provision of the law, if it can be done, for the Government to estimate the amount the bank will pay and pay an immediate dividend to depositors equal to this amount. This would greatly mitigate the hardship of a bank failure and I believe would strengthen confidence of the people in the banks.

19. My knowledge of the organization of the Comptroller's office is not sufficient for me to give any suggestions.

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OCTOBER 4, 1908.

T. P. Martin, jr.,  
Cashier and Secretary Group 1, Oklahoma Bankers,  
Marlow, Okla.:

Your circular letter of 26th ultimo to hand. I am indeed glad to be able to reply to the questions, in my small way, and sincerely hope that such ideas that I may advance will be well considered. I am a small country banker, and naturally my ideas conform to the country banker's view. Yet we make up the banking fraternity, or a great part of it, and nearly all laws that have been passed have been to the direct benefit of the large bank, and what good we get from these laws is what is dished to us by the larger bank.

I will take your questions as they stand and give my answers.

1. I think bank examiners should be selected from competent bankers who have had years of experience, and appointed under civil service or under recommendations from the bankers' associations of the States, regardless of politics, giving them a lifetime job, at an increasing salary, prohibit them from owning any stock in any banking institution, or their wives also, retiring them at certain ages on a pension, or without, as old men can not keep the standard at what it should be.

2. Salary should be such that would tempt good men to take the positions, and not be snags for those who have served some political party. By receiving a salary, the examiner could take his time, and associate more with the people and bankers of the towns visited and learn something of the general reputation of the bank, its officers, etc. I think \$5,000 should be the minimum salary paid to them. They earn it, or should do so.

3. The national banks are a government institution, and the examiners should be paid by the Government, and not by the banks themselves. As years roll by our expenses are heavy and each State is cutting into our revenue in many ways; we have heavy expenses to the Government and the examination is not a creation of the banks themselves, and we should no more pay for the examination than we should pay for the salary of revenue inspector or post-office inspector. Let the public, through the Government, pay it.

4. Yes; I think there should be a force of assistant examiners, and this would make them work hard, and work up just as the messenger finally becomes president of the bank (and loses his appetite), and when an examiner be removed or steps out there will be many good men ready and capable and understanding the situation to take his place. Many examiners know of shaky banks, and being transferred, their successor may take years to learn the true state of affairs. We bankers who are honest are honest, but many bankers may be crooked and fool the examiners, especially new ones.

5. Yes; I think examiners, not only who are in charge of banks, but in their ordinary work, should give heavy bond, and this alone will insure to the Government eternal vigilance and competency, for a bond company would not make their bonds if the examiners were incompetent. I think where a bank failure shows neglect or incompetency on part of the examiner, the depositors should have recourse on the examiner's bond as well as the assets of the failed bank.

6. This section is the hardest thing we have to contend with. We small banks handle all the cotton business of the United States, and every bank, be it large or small, that handles cotton and grain violates the law. I make no exception. While there are some that may evade it in a strictly legal way by covering up the transactions, it is violated just the same. I think this rule should first be modified so that the grain and cotton business could be handled without violating the law; and, further, that the law should be the same for national banks in the States as the States allow the state banks. For instance, our capital is \$30,000; we can lend only \$3,000, but our neighbor across the way, a state bank, with only \$25,000 capital, can lend 20 per cent of its capital to one firm, etc., or \$5,000, and a small bank of \$15,000 capital recently organized (both state banks) can lend as much as we can, \$3,000, thus placing us at a disadvantage. The discount-of-commercial-paper clause has led to many a broken bank, for accommodation paper is easy to get and hard to tell unless after the bank breaks. I don't think it ought to be allowed—that is, that any firm should have more than a certain per cent liability included in this, their notes, overdrafts, or papers upon which there may be indorsers. It is easy to raise money in this way, and the examiner, being unacquainted, can hardly pass on the value of the notes of other parties, and which bear the indorsements of parties who have really already taken the limit allowed by law. I think the limit should be raised to 29 per cent and stuck to. The tendency of the present date is toward speculation, and we receive almost daily offerings of almost any amount of paper of firms of the larger cities, offered to us at a higher rate than the banks of those cities are charging, which shows that speculation or a too heavy credit is sought. This should not be, and a bank outside of a reserve city should not be allowed to purchase paper of firms or parties in other localities, nor even reserve banks

buy paper in other reserve cities. The firms should be prudent and strong enough to get their money at home.

I think the Comptroller should take prompt action. The chances are if he had done so many times in the past it would have made all us bankers respect the law more. I think a penalty of \$100 fine against each stockholder of a bank that violates the law would soon stop all violations of any of the banking laws. I do not think the officers of a bank should borrow extensively from their own bank. But doubtless, if all the directors were required to, in writing to the Comptroller, agree to the loan made, it would stop many a loan of which they knew nothing, and to the bank's officers.

7. Many stockholders could not raise the extra assessment if they had to. Many banks are started by making notes at others and after the new banks are started take up the notes by loan at the new bank. Stricter investigation should be made before granting charters to see that the stockholders are able to pay the extra assessment if it should be called for. I don't see how the Comptroller could help the depositors of three months prior to failure of a bank, knowing it in bad condition. Really, I think if he knew it for three months he should be prosecuted along with the rest of the officers for allowing it to do business. When he knowingly, or his examiner knowingly, allows a bank to continue business under conditions that really show a bad condition, I think they are both as guilty as the bank officials, strictly speaking.

8. I think bank stock a good collateral. If our laws were enforced there would be no need of prohibiting the holding of bank stock by corporations—I mean as collateral. I don't think one corporation should take stock in another, but see no reason why stock in a bank, when properly managed, is not a great deal better as collateral than many other (watered) stocks which are taken as collateral and of which the bank examiner can possibly know but very little.

8. I would suggest that bank officers and directors be required to send special copies of their minutes or resolutions, signed by each, to the Comptroller, on each loan to its officers or directors, and a copy of the resolution signed and attached to the note. That this copy be verified by a personal letter to each director from the Comptroller's Office, as is done in bank examinations when a bank statement is sent to each bank, and they required to report direct to the bank examiner as to whether the statement is correct or not. This will cause so much red tape that an officer will hardly take the trouble to borrow, and if he does, there will be no excuse whatever for ignorance on the part of either the Government or the directors as to the loan. And the first time a loan be over the limit to an officer or director put that person in jail for six months and there will be only a few such violations along that line thereafter.

9. See part of answer to 7. I think national banks should be exempted from double liability if they hold stock as collateral, but if they hold it as stockholders they violate the law and should be prosecuted criminally, and also be held doubly liable as any other stockholder.

10. It brings more business in some cases, especially in Oklahoma, where a state bank is started as an excuse for a national bank to help hold its business. As a rule, I think it unwise. Too much chance of borrowing the assets and working in collusion with each other.

11. We have four papers to make out now, which, Heaven knows, is enough. Let the Comptroller put some of the bankers who are deceiving him in jail and they will stop falsifying their reports. Why punish 20,000 bookkeepers for the sins of one rascal who will doctor his report? Put the blame where it belongs.

12. I think it wise to put in as a total, "Total liabilities of officers and directors," in the published newspaper statements of each bank. This will show the public what we owe the bank.

13. Don't think we could have too many, provided the Government paid for them and they were appointed not on account of political service. Political favors are the greatest curse, in my opinion, the American business man of to-day has to contend with.

14. I think the judges strained a point to clear someone in that decision. I would regret all my life to know that I had made it. The law should be changed to fit the case properly.

15. Certainly; those transferring the stock are as guilty then as they would be had they not transferred. Their very action is a confession of an attempt to defraud, so why should they be allowed protection?

16. Place a penalty of 10 per cent per month on the amount due; bank to be closed if account not squared within three months; charge them a cotton rate of interest something like the small banks do on risky cotton accounts. The Government won't suffer; for enough bank notes that are lost or destroyed would reimburse for any possible discrepancy. I don't see why the Government sends money out until remitted for anyway.

17. We are in a cotton and grain center and have the hardest kind of a time getting small bills, and what we do get are torn, dirty, stinking bills that are shipped from the eastern banks to the southern larger banks, who, in turn, ship to us small banks, giving us a circulation medium that is a cross between a sour undershirt and a patched-up crazy quilt. Our money, the paper kind, is a disgrace in lots of cases. We handle old, torn, dirty bills until you can hardly tell what they are. Yet you say, "Why don't you ship them in?" We say, why in the devil didn't the bank up East ship good money down here instead of old, torn stuff? I suggest that bank examiners be allowed a premium of 5 per cent on the face value of every mutilated bill they find in a bank, to be paid by the banker holding the bill; that the Government pay express charges both ways on mutilated money, both of which will tend to give us good, clean currency. The banks don't mutilate the money; yet as soon as a farmer wears a bill in two in his boot heel he runs to the nearest bank for another bill, or two, perhaps, to put back in the place of the stinking torn one, and the banker must express this bill to Washington, both ways, pay for new money, be out his money, time and trouble, etc., all for who? The public. Then let the public pay for it, and the Government pay the tax or express. Same way on silver. We can hardly get enough silver now for change, especially dollars. We would like to have all our bills in \$5 pieces, as we need them badly for change in cotton season. Another thing: We small banks get the dickens about not keeping proper kind of reserve. A small bank like mine can run on \$6,000 cash, yet we pay out at times daily \$5,000 to \$10,000 during cotton season, but don't show upon our books, tears our cash all to pieces, and we may start with \$10,000 reserve in the morning and have

\$12,000 in bank bills at night. We are in constant fear of robbery, and we think we should be allowed to count a reserve as much as \$5,000 in bank bills, regardless. This would not affect the money situation and would help the smaller banks in complying with the law. A law might be passed that would allow any bank to use as much as \$5,000 in bank bills as reserve, and this would hardly ever be taken advantage of by the larger banks.

18. Yes, I think the Government could easily arrange to advance, say, 50 per cent of the bank's liabilities, or such amount as might be agreed upon by a rigid investigation of those who might not be interested in the bank, but who were residents of the locality and fitted to pass on the assets. In fact, I am in favor of a guaranty law by the Government on national banks in some way, and if we don't get something in Oklahoma we national banks will either have to change to state banks or gradually dry up and blow away. I am dead against the Oklahoma law, not so much because of the law, but of the political scheming behind it, the constant injustice that has been heaped upon the national banks by the politicians who are forcing the law, and other conditions.

I am the only national bank in this small town, with a strong state bank and a new state bank just started a few days ago. So I am in a position to know. The State seems to be determined to crowd the national banks out in Oklahoma. I wish the laws were so that we could have equal rights with them as to loans, real estate, etc. However, Uncle Sam is too slow to expect any good until after it's too late and we have been to our own funerals.

19. Have no suggestions; don't know anything about the workings of the office. However, would like to see the Comptroller or a deputy visit our States once in a while, so we could see him and talk to him, and get his ideas and views and his aid. Everything goes to the East, and we fellows way down here and in the Far West have to make the most of what comes.

There are many changes we would like to see in the banking laws. Especially something about the handling of cotton and grain, deposit insurance in some form or other, release the banks from some of the heavy expenses we have. We are taxed to death, the rate of interest reduced, and get it in the neck on all sides. Would like to see the laws more strictly enforced, especially among the larger banks. Suggest also that when a bank's deposits get over a certain amount that their capital be increased, which will increase their taxes, and which will also prevent, or tend to prevent, them from padding their books and calling a loan on one side with a credit on the other, both for show, a deposit; that bank examiners be reenforced by special examiners, who drop in at any time, unknown to both the regular examiner and the bankers of the State, going from one State to another, not examining all banks, but only a few of each State, for if the special examiner made a tour of the whole State it would soon become known; require the express companies to pay for their banking-business privileges; let the Government pay the cost of printing the money, the express both ways; arrange for the Government to issue bonds direct to banks when they need them for circulation at par, instead of us having to buy them from speculators.

I think it is high time for the banks to get some special privileges, don't you?

I trust that the efforts of your committee will result in much good to the banking fraternity in general, and that their good work will not be too much hampered by the extreme length of this letter.

OCTOBER 7, 1908.

J. Frank Watson,  
Merchants' National Bank,  
Portland, Oreg.:

We are in receipt of your circular letter of the 26th ultimo relative to the changes which should be made in our national banking laws. We will endeavor to answer the questions in their regular order as they appear in the circular letter.

1. We are not in favor of civil-service regulations, for the reason that too many undesirable people are kept in office under this system.

2. Believe the examiners should be paid a salary and allowed necessary expenses. This would permit examiners to take more time and not hurry through the work, as they feel obliged to do under the fee system.

3. Think assessments to provide a fund to pay examiners and other expenses should be based on capital plus surplus.

4. Think it would be desirable to provide a force of assistant examiners to work in cooperation with the examiners in the largest places, and in future when vacancies occur to recruit a force of examiners from these assistants.

5. Think bond should be given by any person having charge of a "failed" bank.

6. Think the amount of paper taken under discount of bills exchanged, commercial paper, should be limited and the Comptroller given authority as stated. Believe directors and officers of bank should not be allowed this additional credit; a penalty to be provided for violation.

7. The Comptroller should have authority to protect depositors who deposit when the Comptroller knows the capital is impaired. Think deposits during such period should be made "special."

8. Would limit borrowing by officers, directors, and employees to proper amount and fix penalty for nonobservance of the rule.

9. Think it unwise to change the law in this respect.

10. Carrying out this rule might work a great hardship on existing banks, but rather favor the plan.

11. Banks should be required to make reports in duplicate, as you suggest.

12. Do not think it would be wise to publish individual liability of officers and directors.

13. Would recommend that the two deputy comptrollers be chosen from among the officials now in the Comptroller's office, many of whom have been there for years and are more competent to occupy the position than anyone coming from the outside.

14. Would recommend that the law be extended to apply to false reports intentionally made to the Comptroller.

15. Doubt the advisability of changing the law, as there would be great difficulty in enforcing same.

16. Should think this matter would be in the power of the Treasurer to regulate, as he could refuse to issue new bills for those destroyed. Such we understand is the practice now and fully protects everyone.

17. Think banks should be allowed to issue currency in any denominations they may require.

18. Doubt if advisable to remove the practice of relying on judgment of the Comptroller and his examiners in this regard.

19. Would suggest that the salary of the Comptroller of the Currency should be made somewhere near what he would receive in any other line of business with the amount of responsibility he is expected to assume. We understand the Comptroller is paid but \$5,000 a year. Think it should be doubled and his deputies should receive at least \$5,000 each.

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OCTOBER 7, 1908.

George R. Wright,  
President the First National Bank of Dallas,  
Dallas, Pa.:

The answers are given numerically.

1. (a) Civil-service rules. (b) Yes.

2. A per diem basis plus necessary expenses.

3. On both capital and assets.

4. Yes.

5. I do not think such employees should be required to give a bond.

6. I do not see how an improvement in the present method can be improved upon unless a limit was established; in that case the merchant would be out his sale by declining to accept the paper, while the borrower might not then be able to get the merchandise, both parties being losers.

7. Yes.

8. (a) The limitation of a bank's loans to officers, etc., as at present enforced seems adequate. (b) Yes; upon approved collateral.

9. Yes.

10. Yes; for the reason that instances such as you mention have occurred, though rarely.

11. I approve of these reports being made in triplicate; two for the Comptroller, one of which to go to the examiner, and one retained by the bank making the report.

12. No; for the reason that an irresponsible applicant for a loan, if refused, would complain that he could not borrow money, but that the officers could, and so reflect upon the management.

13. Yes.

14. Most assuredly.

15. It certainly should.

16. First, a reasonable notice to the bank guilty of dereliction; second, a prompt enforcement of the present law.

17. Yes; banks with a small capital are frequently temporarily embarrassed through lack of bills of the smaller denominations.

18. Yes.

19. Example: In April, 1907, a bank purchased \$8,000, we will say, A and B "Equipment Gold Bonds," due in 1914. The investment was passed by the examiner in May, 1907, but sometime after the

examiner made his report in August, 1907, the bank was notified that this investment was considered as loans, and therefore in excess of the limit, the bank only having a capital of \$25,000, and that they should reduce the same to the legal limit, charging off the difference between the book value and the then market value of the securities. As all bonds and equipment notes were very low last October, 1907, it seemed a hardship on the bank that it should be required to dispose of those securities when the market was as it was at that time. It seems to me that the bank should have been notified promptly from the Treasury Department that the Treasurer classified these equipment gold bonds as notes. Some provision should be made to meet a similar situation in the future.

In answer to the last question see the following pages.

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OCTOBER 7, 1908.

George R. Wright,  
President the First National Bank of Dallas,  
Dallas, Pa.:

In compliance with the request in the closing paragraph of your circular letter I venture to call your attention to an omission in the law which seems to me should be remedied, viz:

Under the present national banking laws a bank is prohibited from owning any of its own shares. Suppose a director should die; his heirs refuse to part with any of the decedent's bank shares; the other shareholders decline to sell, even at a fair premium, any portion of their holdings. How is that vacancy to be filled, which the law requires shall be promptly filled, if it so happens that no one of the other shareholders can or will qualify and act as a director of the bank?

To enable acting national bank directors to fill such vacancies in the board without being compelled to part with their own holdings of the bank's shares, or by requiring a director elected to fill a vacancy to pay a price for the shares necessary for him to own in order to qualify as a director, in excess of the market value of the shares, as well as to prevent a large shareholder from forcing himself into the directorate when he is not able to fill, or be considered qualified for, the position? It is suggested that—

(A) The directors of any national bank may set aside, out of the capital stock of the bank, or they may purchase with the earnings of the bank, or they may take from the surplus of said bank, an amount sufficient to purchase, either at par or at the market value of said shares, when the necessity arises, at least 10 shares and not more than 20 shares of the bank's shares when the capital of the said bank is in excess of \$25,000, and at least 5 and not more than 10 shares when the capital of the bank is \$25,000. The object of such purchase by the bank, of its own shares, being solely for the purpose of enabling a person elected to fill a vacancy on the board of directors to qualify as a director by purchasing the requisite number of shares from the bank.

(B) The directors should be liable for a pro rata amount on the shares owned by the bank in addition to their liability on their respective holdings so long as the said shares are owned by the bank.

(C) Any premium that there may be on any such shares, as well as all dividends paid thereon, while the same is owned by the bank, should be held in trust by the bank for the benefit of the shareholders in case of loss incurred by the bank, with the understanding, however, that any such sum is not to diminish a director's liability on the said shares except only so far as that sum may liquidate his pro rata liability on the shares owned by the bank for the purpose of filling vacancies as aforesaid.

(D) If, from the shares owned by the bank a fund should be realized, either in the form of premiums, dividends on the shares, or any earnings derived from such a fund which would be equal to or in excess of the amount of the additional liability thereby imposed upon the directors; or, in case a sum has accrued that is equal to or greater than the par value of those shares the same should be considered as a stock surplus fund.

(E) In case of a revocation of the bank's charter, for cause, or in case of dissolution while the bank is solvent, the stock surplus fund should be an asset applicable to liquidation, or divisible among the shareholders in case of solvency.

(F) The shares thus owned by the bank, together with these shares' earning power as well as the fund resulting therefrom (dividends on the shares and the earning power of that money), would result in an additional surplus—an asset of value to the shareholders.

In some manner, as I have suggested, but more clearly and legally drawn, the present difficulty of filling a vacancy on the board of directors could be avoided without causing the director, duly elected, to pay a fictitious price for the necessary shares for his qualification and at the same time would enable the directors to elect a capable and competent person to fill a vacancy on the board.

Pardon me for inflicting upon you a matter in which I, for one, think in a revision of the national banking laws should be taken into consideration. Had not your circular opened the door for the suggestion I should not have presumed to offer one.

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OCTOBER 8, 1908.

H. W. Lewis,  
President the Farmers and Mechanics' National Bank,  
Philadelphia:

Referring to your circular letter of the 26th ultimo covering the matter of changes in the present banking laws, I beg to reply to the several questions asked in the order given in your letter.

1. The bank examiners here are very excellent indeed, and if the same holds good elsewhere the present system of appointments would seem to meet every necessity in the matter.

2. It would seem to me that a salary basis would be the best method of compensation for national-bank examiners.

3. I think the law should be changed so that the amount of the assessment should be based on capital and gross assets rather than on capital alone. Under present methods a bank with a minimum capital can have a large amount of assets, requiring considerable labor to examine and receive advantages in the way of assessments which it is not entitled to. One of the dangers of banking is the effort to take

care of a large amount of deposits on a small capital. The failure of the National Bank of Commerce, Kansas City, has been attributed to the fact that the bank had too much business for its capital, and the clearing-house association of the banks of New York some years ago, in a report covering the matter of the failure of certain national banks, suggested that the amount of deposits a bank should be permitted to handle should be limited to a reasonable total as compared with capital.

4. It would seem eminently wise to provide a force of assistant bank examiners to work in cooperation with examiners in large places. In fact, when this bank is examined the examiner always has with him two or more assistants as helpers, and it would seem that such assistants should be properly qualified under the law to assist the regular examiner in making examinations.

5. A sufficient bond for the protection of the Government and the bank should certainly be expected by those placed in charge of failed banks. Under the modern system of business it is the rule that all persons in positions of trust shall be bonded.

6. There have been, as it is stated, failures resulting from excessive loans made to single or allied interests on what is termed business paper.

Inasmuch as a large volume of what is known as business paper of the present day consists of notes without indorsement or notes bearing the indorsement of individuals or corporations of allied financial responsibility to the makers of the notes, it would seem wise that the total liabilities to any national banking association of any person, corporation, or firm should be limited to the sum provided under the present statutes, and that bills of exchange or other forms of indebtedness should not be excepted.

There has been a general disappearance of real commercial paper, that is, of notes given by the actual buyers of goods and indorsed by the sellers.

One of the most beneficial changes in banking in this country would be to return to the banking methods pursued a number of years ago. In those days banks were in direct touch with business operations discounting sixty and ninety-day notes given by buyers of goods to merchants and jobbers. The large increase in the number of note brokers, and the consequent energetic sale of single-name paper, has driven former banking methods quite out of existence, and weakened to a great extent the strength and liquid nature of bank loans.

The better monetary condition and strength of banks abroad is largely due to the fact that acceptances for goods sold are discounted by the banks, and the volume of this business is very large indeed. The most important banks in Europe discount an enormous volume of acceptances, the average amount of each acceptance being quite a small sum, a very large number of them being for sums that banks here would not be bothered with, and yet the vast mass of the population is benefited.

The Comptroller should have authority to take action when, in his judgment, loans are made in excess of the limit given in the statutes, giving reasonable notice to curtail the excessive loans, and if unattended to in the time allowed, to take immediate action.

Officers of banks should not be permitted to borrow from their own institution, and loans to directors should be governed by special regu-

lations. A penalty could be provided for violating the statutes regarding the making of loans.

7. It would seem eminently proper that where the capital of a bank has been impaired, and the Comptroller has notified the association to make good the impairment, that the depositors should be protected from any subsequent losses that might occur, pending the making good of the capital of the bank.

This could be accomplished by putting a bank examiner temporarily in charge, at the expense of the bank, to oversee the conduct of the business, and no new loans should be permitted to be made by the association during the impairment of its capital.

8. Officers or employees of banks, as stated above, should not be permitted to borrow from their bank, either directly or indirectly, under penalty of the law. Directors of a bank should not be permitted to borrow without indorsement or security.

9. Under proper management and regulation national-bank shares ought to be a satisfactory investment, and there would therefore seem to be no reason to provide against the holding of shares of national banks by other corporations.

10. It is generally considered a source of danger in banking to have another banking institution in the same building with a national association. It would seem wise that the statutes should cover this matter and it be made illegal for two banking institutions to occupy the same building.

11. This bank has always made its reports in duplicate, one copy being held here and the other copy sent to the Comptroller of the Currency.

It would seem eminently wise that the reports to the Comptroller should be made in duplicate and one copy furnished to the examiner when he undertakes the examination of the bank.

12. I see no objection to publishing the liability of directors of national banks. It would seem eminently wise to do so. As stated above, the officers and employees of banks should not be permitted to borrow from their own institution.

13. The present methods of appointment appear to produce satisfactory results. The appointments heretofore made appear to have been good ones.

14. It would seem wise to extend the law so as to apply to false reports made to the Comptroller.

15. I do not think that it is necessary to change the present laws regarding the liability of shareholders. In many of the States banking institutions are permitted to engage in business very largely if not exactly on the lines of national associations and without liability to the shareholders of such other banking institutions. The liability of national association shareholders has caused an unjust discrimination against investments in national-bank shares as against that of trust-company shares, giving the latter institutions an advantage over national associations. National associations should be allowed equal advantage with trust companies.

16. Banks which do not meet the calls upon them to make good their 5 per cent redemption fund should be dealt with according to law and be compelled to make payment. It would seem proper that where a bank holds United States bonds securing circulation in excess

of the amount required to be held by the bank, that the excess holding of bonds, or so much of it as may be necessary, should, after proper notice, be sold and the circulation of the bank liquidated to that extent.

The operation of this procedure would doubtless result in liquidating the indebtedness by bringing the bank to immediate settlement, but should the bank still refuse to make its redemption fund good or have no excess holding of United States bonds beyond the requirement for such association, a reasonable notice should be given to the bank, after which the Comptroller of the Currency should be authorized to make levy upon any property of the bank for reimbursement of its redemption fund, and the Comptroller of the Currency should have authority to take possession of so much of the bank's assets as he might deem necessary for his protection.

The small premium on United States bonds is naturally one of the difficulties in handling the situation, and I think it may be found that the Government was unwise in reducing the rate of interest on United States bonds as low as 2 per cent per annum. It would seem to have been better to have made the minimum rate 3 per cent or 4 per cent and sold the bonds at a premium. Under present conditions there is little, if any, profit on national-bank circulation and monetary and banking conditions call for a reduction or cancellation of the present tax on national-bank notes and the providing of proper measures whereby a reasonably rapid retirement and reissue of national-bank notes can take place. The lack of elasticity is the great drawback to our national-bank circulation, and without altering the basis of security of national-bank circulation provision can be made by law for its greater elasticity. Should measures be adopted for making national-bank note circulation elastic, it is quite possible that no emergency currency or other financial measures would be required, since a contraction of the present circulation would take place when money was not in demand and an expansion would take place when the demand came. Speculative conditions are developed by the nonelasticity of national-bank circulation, causing a piling up of reserves at the large centers during easy-money times and producing speculation in the stock markets.

17. I believe that a great mistake was made when a limit was placed upon the issue of notes of the denomination of \$5 which a bank may have outstanding. As you state, frequent complaints are made in some localities on account of the scarcity of small bills. This condition of things frequently prevails in this city, and even at the present time there is a scarcity of small bills with some of our correspondents, as we are making large shipments of small bills from time to time to meet demands, and often have difficulty in obtaining small bills. There should be no limit upon the amount of five-dollar notes which a bank may have outstanding, except as to its limit of circulation.

18. It would seem wise in the liquidation of banks that dividends should be paid as rapidly as possible and no delay made for the accumulation of any considerable percentage of the debts. A dividend of 5 per cent as soon as collected should be paid and followed by subsequent dividends of that amount without waiting for dividends of 20 or 25 per cent, as seems now to be done.

19. Regarding the matter of other changes which should be made in the national banking laws, it would seem to me that one of the most important changes needed is for the recognition of the rights of minority stockholders in national associations. Under the present laws, anyone controlling a bare majority of the stock of an association—in fact, anyone controlling say 40 per cent of the stock of a national association—can assume practical control of the management and loans of a national association. The right of cumulative voting should be incorporated in the national banking system. Stockholders of national associations are virtually partners in business and the owner of a reasonable stock interest should have his rights protected and the right of cumulating his vote in case he should care to do so.

The present laws could be easily changed so that the number of directors in all national associations should be made uniform. As the present law permits a sliding scale in the directorate, there are avenues open for restricting the number of directors or enlarging them unduly. A uniform number in each case would appear to be eminently wise and this number should not be less than ten or a dozen.

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OCTOBER 13, 1908.

Francis B. Reeves,

President Girard National Bank,  
Philadelphia:

I take pleasure in replying to your circular letter of September 26, 1908, answering your several inquiries by number seriatim:

1. The method of appointing examiners should, I think, be made subject to civil-service rules, which rules should apply to the tenure in office of examiners, provided that reappointments shall not be prohibited.

2. I believe it to be desirable to change the method of paying examiners to a salary basis.

3. I think the law of assessments for providing a fund to pay examiners should be so changed as to base assessments on gross assets, but not on capital. If based on capital and assets, so much as is represented by capital is twice assessed.

4. Yes; subject to civil-service regulations.

5. Yes.

6. The clause in section 5200 of the Revised Statutes that limits the total liabilities of any person, firm, or corporation, but excepts bills of exchange, etc., in my opinion should be eliminated altogether. I see no reason why banks should be allowed to discriminate against their borrowing depositors in favor of drawers of commercial paper “actually owned by the person (broker) negotiating the same.” The Comptroller should be given authority to take action when in his judgment excessive loans are made. Directors and officers of banks should not be placed in a different category from general creditors, and proper penalties should be provided for violation of the law in such cases.

7. In cases as here described I can not think of any way of specializing deposits made during the three months of grace allowed for collection of stock assessments to make good impaired capital. It is

unfortunate for these particular depositors, but no less is it so for the other depositors.

8. Employees should not be permitted to borrow from their own bank. Firms or corporations with which directors are connected should enjoy the same rights as other borrowers. To deny them this might compel the retirement from bank directorates of some of their most useful and valuable directors and officers. An honest and able management will always provide safeguards against abuse.

9. It would be wise to forbid the holding of shares of national banks by any other corporation in which officers and directors of such banks shall be shareholders, except in cases when taken in satisfaction of debts.

10. No; because such misuse of securities might as easily occur between banks, whether occupying the same building or not.

11. Yes.

12. Nothing would be gained by requiring the publication of the individual liability of officers and directors. I would suggest, however, that after each report and examination the department forward to any bank showing such loans a departmental blank, in proper form, showing such liabilities, and requiring that this blank be signed by a majority of the directors not interested in such loans, and that the blank be returned to the department.

13. No.

14. Yes.

15. Yes; with a time limit and indubitable proof of such knowledge.

16. Yes; it is a matter which may be best considered by the committee in connection with the Treasury Department officials.

17. Yes.

18. Yes.

19. I have no suggestions to make on this point.

OCTOBER 12, 1908.

L. L. Rue,  
President, the Philadelphia National Bank,  
Philadelphia:

Answering the questions submitted in your circular letter of September 26, we would reply to

1. In our opinion the appointment of national-bank examiners should be continued as at present—they should be selected not for political reasons, but because of their ability, and not be subject to civil-service rules. We can readily imagine that a man might be able to pass a civil-service examination and yet not possess the qualities for a good bank examiner.

2. In regard to the method of paying the examiners, we would favor that they be given a certain fixed salary per annum, rather than receiving a certain percentage of the capital of the bank, as at present. This has a tendency to make the examiner hasten through his work and examine as many banks in as short a time as possible. On the other hand, if paid on a per diem basis, it might prolong the examination of a bank unnecessarily, for the extra compensation.

3. Provided the compensation of the examiner is on a salary basis, we think the assessment should be made covering the actual length

of time consumed in the examination. If the compensation is not on a salary basis, we think the assessment should be on the total assets of the bank rather than on the capital.

4. We approve of the suggestion to have a force of assistant examiners.

5. It would seem prudent to require a bank examiner, when acting as temporary receiver, to give sufficient bond for the protection of the Government, as well as the creditors of the bank, the same as any other receiver.

6. We think it would not be wise to limit the amount of bills receivable, drawn in good faith and against actual existing values, that a bank might discount for its customers. It is our opinion that very few failures of banks have occurred through discounting too liberally of this class of paper, but we can readily appreciate the danger of a bank discounting so-called bills receivable, which are represented by the notes of allied or affiliated companies. It seems to us that here the discretion and judgment of a bank examiner must be exercised in informing the Comptroller of any overloaning on paper of the latter kind. The Comptroller should be given authority to check loans made in excess of the limit which prudence and safety would indicate.

7. In regard to the money deposited with a bank within the three months' period, when the Comptroller has notified the directors of an impairment of its capital, said impairment not being made good and the bank placed in liquidation, it would seem that money so deposited during this time should have a preference and be paid first out of the assets of the bank before the general depositors.

8. It is our opinion that no officer of a national bank, or employee other than a director, should be permitted to borrow from the bank where he is employed.

9. We think it would not be wise to prohibit the holding of shares of national-bank stock by any other corporations, except where it is clearly shown that it is simply a holding company.

10. While we think it undesirable that another banking institution, closely affiliated with a national bank, should occupy the same building, we do not think it sufficiently so to make it unlawful, but where this close relationship exists it would be wise for the Comptroller to arrange with the state authorities (if the institution is a state one) to have simultaneous examinations of the assets of both institutions.

11. We think it wise to require reports in duplicate to be made to the Comptroller, the duplicate to be furnished by the Comptroller to the bank examiner in making his examinations, that he can make a comparison with the books of the bank.

12. We do not think it would be wise to provide, in the publishing of reports, for the showing of direct and indirect liabilities of directors and officers of the bank.

13. In our opinion it would be wise to have the Deputy Comptroller of the Currency appointed by the Secretary of the Treasury.

14. We approve of making it a misdemeanor for an officer or employee of a national bank, with intent to deceive, to make false reports to the Comptroller of the Currency.

15. We think the law might be changed so as to make the double liability of the shareholder to remain in force for a period of six months after the transfer of the stock on the books of the bank, in

the event of its failure, provided it can be shown that the shareholder transferred his stock, having a knowledge of the bank's failing condition.

16. When banks fail promptly to reimburse the Treasurer for redemption of their circulation, the Comptroller of the Currency should be authorized to withhold all new circulating notes, or notes received fit for recirculation, instead of forwarding them to the bank. In this way, while the process might be slow, the deficiency would eventually be covered.

17. We think it desirable to limit the amount of the five-dollar notes which a bank may have to one-half of its total circulation instead of one-third, as now prescribed by law.

18. Should it be deemed desirable for liquidating banks to pay their deposits more rapidly provision might be made whereby the Treasurer of the United States could advance to the receiver of a failed national bank funds to an amount not exceeding 75 per cent of what a careful examination of the assets of said bank would show it would eventually be able to pay in dividends to its depositors.

Or, if it was not deemed wise for the Government to advance the money out of its own funds, authority might be given to the Treasurer of the United States, upon request of the Comptroller of the Currency, with the consent of the Secretary of the Treasury, to issue his obligation to an amount not to exceed 75 per cent of the good, available assets of the failed bank, to bear interest at a rate not to exceed 4 per cent per annum. The receiver acting for the Government could liquidate the assets of the failed bank, the Treasurer of the United States applying the proceeds to the retirement of his obligation issued for the purpose of anticipating payment to the depositors.

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OCTOBER 9, 1908.

Hugh Young,

President the Federal National Bank of Pittsburgh,

Pittsburg, Pa.:

Replying to your circular letter of September 26 requesting suggestions as to changes in national banking laws, I will answer seriatim for sake of brevity:

1. The method of appointing examiners should be continued as at present, with the proviso that no application should be considered by the Comptroller unless the applicant had attained the age of 30 years, and had five or more years experience as an employee in a bank; his other qualifications should be tested by an examination. Civil-service regulations should not apply to the tenure of office of examiners, for if the Comptroller should discover that his appointee was not "a suitable person" he ought to have the power to discharge him and revoke his commission. Under civil-service rules any bright student might be able to answer the required percentage of questions in examinations for such office, and yet be utterly unfit for the position of bank examiner, which position requires experience in banking, sound judgment, and a knowledge of men and of modern business methods.

2. The Comptroller should be authorized to fix the salaries of all his appointees on a per diem sliding scale, commensurate with the

ability required for city or country work. The minimum fee of \$10 per diem and the maximum fee of \$25 per diem, and travel and hotel expenses with vouchers for same, ought to and would, doubtless, secure competent men. No bank officer will be found to object to any assessment made for the payment of examiners if the work is thoroughly done.

3. The assessment to provide a fund to pay examiners, to be equitable and fair to all, should be made on gross assets and not on the capital as at present, for the reason that many banks of small capital have very large assets, a condition which was not foreseen when the present law was enacted.

4. There should be no assistant examiners, as such. Every examiner should be commissioned (see answer No. 1), and the Comptroller should send those of little experience to a city examiner to assist him, and thus give the inexperienced an opportunity to learn correct methods of work. It should be left to the discretion of the Comptroller as to the value of such service.

5. Examiners in charge of failed banks as temporary receivers should give bonds for the protection of the Government and the bank, said bond to be approved by the United States district judge where bank is located.

6. Section 5200, Revised Statutes, should be amended by striking out in the proviso the words "and the discount of commercial or business paper actually owned by the person negotiating the same." The exception would then be confined to "bills of exchange drawn in good faith against actually existing values." Your remark that "frequently banks have allowed a liability of this class (commercial and business paper) to greatly exceed in amount what they could legally take as a direct loan, many failures have resulted from these excessive loans made to a single or allied interest," brings to the front the question: What is business paper? My answer to this is that the exception in the proviso should be stricken out because "business paper" or notes made on the credit of some merchant, manufacturer, or importer rated as "A1" are not drawn against values, and are only accommodation loans, which may or may not be paid at maturity, and if not paid, may result in loss, and perhaps disaster to the banks holding them. I do not know what the bankers of 1863 considered as "commercial paper" in contradistinction to bills of exchange, but the conditions then and now, forty-five years later, are altogether different. If desired I will answer further my reasons for calling such paper accommodation loans and therefore excluding them from the proviso, but think you will see my point without further illustration.

With this elimination the section should stand as amended by the act of June, 1906.

The directors of a bank, and not the Comptroller, are the best judges of their loans. Where banks have failed through excessive loans made to single or allied interests it will be found, in most cases, that they were "accommodation loans" made on so-called business paper and not on bills of exchange drawn against values. How is the Comptroller to know when a bank has "exceeded the limit indicated by prudence and safety" in the discounting of so-called business paper?

A penalty should be provided against all violations of the law and should be rigidly enforced against the officers and directors responsible for such violation.

7. Section 5205, Revised Statutes, providing for the impairment of capital could not well be improved. If the Comptroller thinks the impairment of any bank's capital so serious that depositors should be protected, they should all be protected by the suspension of the bank until the capital is made good. But this action might be found impractical for many reasons. My point is that there should be no preferred depositors.

8. The officers, directors, and employees of any bank should be permitted to borrow from his own bank just as freely as any other borrower, subject, of course, to the limitations of section 5200, Revised Statutes, as amended by act of 1906, and section 5239, Revised Statutes, for enforcing liability of directors. In point of fact most of the cashiers of banks all over the country are directors of their banks.

9. No national bank should be permitted to purchase any stock as investments, because of the contingent liability; they should be permitted to take stocks of national banks or other corporations for debts previously contracted in good faith. There should be a time limit for such holdings, such as is provided in section 5137, Revised Statutes, in regard to real estate, say one year instead of five. In my opinion, Congress can not legislate against the holding of national-bank stock by corporations over which it has no authority.

10. It would not be wise to recommend a law forbidding the operation of another banking institution in the same building with a national bank. Sometimes the officers and directors of national banks have taken a state charter for a savings bank in adjoining rooms of the same building. By concerted action the state examiner and the national examiner could examine both institutions at the same time, and thus avert any possibility of exhibiting the same securities to both as a part of the assets of either.

11. The provision for bank reports made under section 5211, Revised Statutes, is a matter for regulation by the Comptroller and needs no legislation to enforce it. He can call for as many copies of the reports as he needs, and send a copy to his examiner for his information.

12. I do not think it would be wise to publish in the reports provided by section 5211, Revised Statutes, the liability of the officers and directors, either individually or collectively. Such information is for the exclusive use of the Comptroller, to enable him to judge whether the bank is in sound condition, and whether the provisions of the bank act are being properly complied with. I am a firm believer in publicity to the limit of public safety, but not many men could be obtained as directors of banks if their business loans were to be published and commented on by persons in the same line of business and in the same town, who were not directors, but might be shareholders in the bank.

13. I am in favor of the civil service in all departments of the Government, but for obvious reasons (some of them given in answer No. 1) the Comptroller's office, except its clerks, should be exempt.

14. The law, section 5209, Revised Statutes, should be amended and made to apply to reports made to the Comptroller.

15. It would be well if the law could be so changed as to make it possible to enforce the liability of a shareholder who had foreseen the insolvency of a bank in which he owned stock, and transferred or sold that stock to escape liability, but it would be very difficult to prove such a charge, unless the person was a director or officer of the bank.

16. I am not familiar enough with the powers and functions of the office of the United States Treasurer to recommend a method to compel banks to make good their delinquencies of redemption of their circulation notes, without resorting to the harsh measure of selling their bonds or closing their banks. The Treasurer and the Comptroller together ought to be able to find the remedy for this evil, without resorting to the drastic measures referred to.

17. There should be no limit to the issue of bills of any denomination required by the banks. The wants of each locality should be considered first, and the bonds securing the circulation are just as good for small notes as for larger denominations.

18. I do not know any provision in the existing laws which would prevent the quick payment of a dividend by the receivers of a failed bank from the cash on hand at the time of failure. In a good-sized bank it takes about three months to call in and balance pass books and prove claims, but this need not prevent the payment of 10 to 20 per cent within a week or two after a failure; another dividend when the books are balanced and claims proved, from collections made in the interim, and a final dividend when the balance of the assets are turned into cash. Some receivers are apt to nurse the job to continue their salaries, and some legislation to shorten this work is needed.

19. I know nothing about the work in the Comptroller's office, or its organization.

If every banker writes you as long a reply as this you may be sorry you sent out your inquiries.

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OCTOBER 7, 1908.

R. B. Hunter,  
Cashier the First National Bank,  
Webster, Pa.:

In reply to your inquiry of September 26, 1908, concerning our opinion on proposed changes in the national-bank law, we will give you our opinion on the questions asked, as follows:

In our opinion a better class of examiners would be obtained if the appointing of them were made subject to the civil-service rules and their tenure in office be brought under the civil-service regulations. The less that politics has to do with the Comptroller's office and the examiners the better it will be for the banks.

In regard to the fees, I think that the present system is altogether wrong. Usually when an examiner comes into a small bank, in a small town, one of the first questions that he asks is, "When can I get a train out of here?" and then he plans his work according to the amount of time that he has. While we do not say that all the examiners do this, in the last three years there have been but two examiners that took enough time to go over all the books.

We believe if the examiners were placed on a regular salary, that they would put in whatever time was necessary for a proper

examination of the bank. If they were paid by the day and did not have a large territory to cover, they might try to put in more time than necessary, and if paid a salary the Comptroller will be able to tell if they are making good use of their time or not.

We believe that the assessment should be on the total assets of the bank and not on the capital. The time required to make a proper examination will depend on the amount of the bank's assets and not on the capital. It is unfair for a bank with a large capital and deposits in small amount to pay a far larger examination fee than one with a small capital and with as much deposits as the one with the larger capital and taking the same time and work to make the examination.

We think that the proper way to get good examiners is to have examinations for assistants and then give the places to those best qualified to fill them, and then as you need examiners give the higher positions to the assistants who have proven themselves best fitted to fill the positions.

We believe that the bonds of the examiners should be of a reasonable amount to cover the ordinary money that is likely to pass through their hands. And in the case of an examiner reporting to the Comptroller that a bank is in bad shape, that the Comptroller send one of the best examiners, who shall receive higher wages and who shall be required to give a far larger bond, to take charge. If there were five or six examiners scattered over the country, they would be able to reach almost any bank in a day or so.

In regards to there being another banking institution in the same building with a bank under the national laws, it would appear to us to be needlessly severe to not allow them to be in the same building, but would require that there be no inside connection between a national bank and anything else. If they should send outside for money or securities, they could get it just as easily from the bank in the next building one door below as from the bank in the same building one door above, there being no inside connection.

We think that it would be asking too much to compel the banks to send duplicate reports to the Comptroller, as they would have to make out three blanks, two for the Comptroller and one to keep on file. We think that the best way would be for the examiner to prove the books from the one that the bank has on file and then send this to the Comptroller with their report and have the Comptroller's department compare it with the original one on file in his office and return the duplicate to the bank after it has been found all right.

If they are found to be different, the Comptroller will then have evidence of wrongdoing in his hands.

We do not think that it would be well to print the total liabilities of the officers and directors. There might be some of the directors or officers who might not be the best security, and if the bank reported that they had so much loaned to the officers and directors, the ones in the poorest circumstance would be supposed to have borrowed the money, while it might have been borrowed by the richest directors in the bank. We think that the officers should be prohibited from borrowing any money from the bank. If they have sufficient security to borrow the money from their own bank, there will be other banks which will be willing to accommodate them. And in the case

of a director wishing to borrow money from the bank, he should be required to make application to the board of directors for it, and the application passed on by the board before the credit is extended to him; the application and the resolution to be entered on the minutes and the directors' names voting in favor of granting the loan. If the loan is made in bad faith and proven to have been made in bad faith, then make the directors voting for it individually liable for it.

In answer to No. 13, would say that the deputy comptrollers should be civil-service men. It is not wise to mix politics with banking.

The making of false statements to the Comptroller of the Currency should be a misdemeanor and punishable by law.

If the owners of stock in a national bank are unable to pay the amount of their liability, if the stock has been transferred within thirty days of the time of the bank's failing, think that the previous holder of the stock should be made to pay whatever deficiency there may be that the present holder of the stock can't pay.

If a national bank does not deposit the deficiency to their 5 per cent fund within ten days of receiving notice from the Treasurer, then a fine of 1 per cent of the deficiency a day until the fine shall become 10 per cent of the deficiency, and shall remain at that amount until the end of thirty days from the receipt of the notice. If it remains unpaid at the end of thirty days, the Comptroller of the Currency shall take action to sell the bonds and to appoint a receiver. The fine to be either paid by the bank or deducted from the first interest that may be due.

We can see no reason why the national banks should not be allowed to take out all their circulation in five-dollar notes if they wish to do so.

We believe that if the Government was to pay 50 per cent of the estimated worth of the paper and assets of a failed bank at once, and then charge the bank with 3 per cent interest until there has been collected enough money to return the money to the Treasurer. After the 50 per cent has been paid, the Government to have first claim against the bank until their claims for the money advanced has been repaid.

The term of office of the Comptroller is limited to five years. We believe that it would be for the good of the department to make this that he shall not be removed from office except for failing to properly attend to the duties required of him by law.

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OCTOBER 12, 1908.

R. G. Rhett,

The Peoples National Bank of Charleston,

Charleston, S. C.:

Yours of the 26th ultimo received, and I beg to reply to your questions as follows:

1. I think bank examiners should be subject to civil-service regulations.
2. I think the present method of paying examiners is radically wrong. I think the Government should pay the examiners fixed salaries.

3. I think assessments to pay examiners should be made on a basis of capital and surplus.

4. Yes.

5. Yes.

6. By limiting the amount of bills of exchange and business paper permitted to be taken in addition to other loans mentioned in section 5200.

I think the proper remedy to prevent the evil of excessive loans is to charge a fixed rate per cent, and not leave it to the discretion of the Comptroller. If a bank was compelled to pay interest on excessive loans at the rate of 5 per cent per annum to the Government as a penalty, it would do more to put a stop to it than a discretion in the Comptroller to close the bank up. The bank knows that the Comptroller is not likely to do this, unless the case is a very aggravated one. The consequences would be too disastrous. I think officers of banks ought to be placed in a different category from general creditors. I am doubtful about directors. As I have said above, I believe the most effective way of preventing excessive loans is to make them unprofitable by reason of a fixed penalty. Such penalty could be easily enforced. On the other hand, penalties against officers or directors in the way of fines or imprisonment are difficult of enforcement, and very much less effective in preventing a breach of the provision.

7. I am not prepared to answer this question without more data on the subject. My opinion is that all national-bank deposits drawing interest at not over 2 per cent should be protected by a safety fund and guarantee of all national banks, just as my opinion is that all the paper currency of this country should be issued by national banks in proportion to their capital stock and protected also by a safety fund and by a mutual guarantee of every national bank chartered by the Government, paying the Government therefor a tax of 2 per cent. My opinion is that all other paper currency now in circulation should be retired, except possibly gold certificates, and I inclose you herewith an address prepared for the bankers' association, and put into print by accident, as it was not delivered. This address will explain my views to you fully.

8. I think it doubtful whether any officer should be allowed to borrow from his bank under any circumstances, but if so, it should be only under a resolution of the board of directors, which resolution should possibly be unanimously passed.

I think that loans to directors could be put upon a different plane, but I do not believe that they should be made without a specific resolution of the board.

9. Yes.

10. I think effective legislation ought to be enacted to prevent the evil to which you refer. I am doubtful about the remedy you propose doing this.

11. Yes.

12. I think it very doubtful whether any good would be accomplished by such publication.

13. Yes.

14. Yes.

15. Yes; but in my judgment this can only be done by making all stockholders liable who have held stock within, say, six months prior to failure, provided the assessment is uncollectable out of transferee.

16. Yes; by charging at the rate of 10 per cent per annum for deficiency, beginning, say, ten days from the date when the treasurer shall mail notice.

17. Yes.

18. Yes; see method in my inclosed article.

19. No.

*General remarks.*—I inclose you an address which I have prepared, but was unable to make at the last meeting of the National Bankers' Association. In this address is a bill which embodies my ideas of a proper currency and monetary system for the United States. In addition to the provisions of the bill, I am inclined to think that the deposits of national banks should be limited to about seven times their capital stocks, with, say, a penalty of 10 per cent for all deposits taken over this proportion.

As you will note from the inclosure, I am deeply interested in this subject, and have been studying the question for some time. If I can be of any service to you I shall be pleased to render it.

Address, etc., sent under separate cover.

OCTOBER 8, 1908.

R. H. Driscoll,  
Cashier the First National Bank of Lead,  
Lead, S. Dak.:

In answer to question No. 1 we would say that it is not desirable to apply civil service regulations to the tenure in office of bank examiners, and we believe that they should be appointed as at present.

2. We believe that a salary or per diem basis would be much better than the present fee system.

3. We believe in making assessments to provide a fund to pay examiners; that it would be more equitable to base the amount of the assessment on capital, surplus, and undivided profits.

4. A good idea.

5. A sufficient bond for the protection of the Government and the bank should be required from bank examiners acting as temporary receivers.

6. We believe that a limit of 20 or 25 per cent of the capital and surplus to be a good rule in the case of bills of exchange and commercial paper. We believe the Comptroller should be given authority to take action in the matter of excessive loans only when fraud is indicated, and we further believe that he should be given authority to impose some penalty for excessive loans in general, particularly when unsecured, but we further believe that the limit should be raised in the case of persons borrowing upon securities of undoubted value when the market value of such securities does not depend in any manner upon the borrower. We do not think that directors and officers of banks should be placed in a different category from general creditors. We think a penalty should be provided for the violation of law.

7. Without publicity it might be fair to consider such deposits as preferred creditors.

8. We think that a bank's officers, directors, and employees should be treated as others in the matter of loans. We think any officer should be permitted to borrow from his own bank.

9. Unconstitutional and interfering with state rights, we believe.
10. We don't believe there is anything in it. Such securities could be removed to or from a distance equally as well.
11. A good idea.
12. Might appear dangerous. A bad idea.
13. We are not in favor of such appointment under civil-service regulations. Legal and executive ability may be obtained better outside of civil-service regulations.
14. We believe the law should be extended to apply to false reports made to the Comptroller.
15. Yes.
16. We believe the Treasurer should have authority in some way to enforce this law by giving such institutions a limited time to make good without resorting to such extremes.
17. The limit might be removed and the matter made optional with banks.
18. Not feasible.
19. No suggestion. We believe that the results up to the present time of the national banking act in its administrative features and otherwise have been excellent, and while of course improvements will better things we don't believe any radical change will better them very much and we don't believe there is any call for any radical change.

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OCTOBER 13, 1908.

F. O. Watts,  
President First National Bank,  
Nashville, Tenn.:

We are in receipt of a copy of your circular letter under date of September 26. We are not advocates of too many changes in our present national-bank law.

Without undertaking to go into details, we believe that the most important changes are: First, the placing of the examiners on a salary basis and under civil-service rules; second, restriction of loans to be made to officers of the bank to those secured by approved collaterals, and to the directors of the bank to loans approved by not less than five of the other members of the board, the loans to officers on collateral to have a similar approval.

We think it would have a good effect if the laws should be changed to expedite the liquidating of banks or giving the Comptroller authority to sell the established business (the deposits) of a closed bank.

In those sections handling such products as cotton, corn, and wheat the limit of 10 per cent where the product is actually securing the loan is a bit rigid, and there should probably be some provision allowing banks to make these loans, say, to the extent of 20 per cent of their capital and surplus. The purchase of commercial paper in addition to the personal loans should probably be restricted to 10 per cent.

OCTOBER 30, 1908.

D. A. Linthicum,  
Vice-President The First National Bank of Farwell,  
Farwell, Tex.:

Replying to your circular September 26:

1. The present method of appointing national-bank examiners should not be changed. The application of civil-service rules would be detrimental to the best interests of the department. The theory of the civil service is good, but its practical application is injurious to many branches of the government service.

2. To insure the highest efficiency bank examiners should be compensated on a salary and expense basis.

3. Assessments to provide a fund for compensation of examiners should be made on a basis of gross assets, since many banks have less capital than surplus.

4. Assistants should be provided the examiners wherever necessary, but they should not of necessity be in line of promotion to fill vacancies. It does not follow that because an examiner is qualified to pass upon affairs of a bank in New York that he is a judge of conditions in Texas.

5. Examiners should be required to give bond in all cases where it has been shown by past experience losses are liable to occur from the receivership of failed banks.

6. Section 5200 of the Revised Statutes should be amended to define actually existing values upon which bills of exchange may issue, as to eliminate this provision entirely would seriously hamper, not only banks in the legitimate transaction of business, but might affect conditions generally. Failures have resulted from the fact that these excessive loans were extended where there was not actually existing values. It is not practical for the Comptroller to pass upon securities with which he is not familiar; therefore he should not be given authority to act where he would be an incompetent judge. In order to make such a plan practical it would be necessary to reorganize the system of examination, putting it upon a basis whereby an examiner would be in a position to sufficiently acquaint himself with securities to pass intelligently upon their value. Officers and directors should certainly not be allowed to assume the position of preferred creditors, but at the same time it would not be just to interfere with their rights as individuals beyond the responsibility of their respective offices. The table of past experience will show whether those acts which are punishable are less frequently violated than those for which there is no penalty, and upon this basis should be determined the advisability of attaching a penalty clause to violations of other rulings.

7. The only practical method of protecting depositors during the period of impairment of capital would be to guarantee their deposits, and from a standpoint of equity one creditor should not be protected as against others. To take from a bank during such a period the authority to receive deposits would be to frustrate the very object which is wished to be obtained.

8. The practice of officers and employees borrowing from the bank is bad, but to incorporate a statute absolutely prohibiting their becoming indebted to an institution in which they were officers might, on the other hand, work injuriously to the institution in some

instances. Officers should be loaned money only in cases of absolute necessity, and then only upon a vote of the majority of the directors, exclusive of the officer making application, and the resolution should be incorporated into the minutes of the meeting, and so reported to the Comptroller.

9. Since a national bank may not own stock in another corporation, a like rule should apply to other corporations holding stock in national banks, except when taken in satisfaction of debt, and should then be disposed of within a limited time.

10. In order to prevent the securities of another banking institution, operating in the same building with a national bank, being used during examinations, it is not necessary to pass an act preventing the two institutions occupying the same building. The remedy for such practices would be to put the examiners on a salary basis and allow them sufficient assistants to audit the bank.

11. It is not necessary for the banks to make reports in duplicate for the Comptroller's office, as his force should do this work and send the report to the examiner as he goes through his territory.

12. It would be unwise and injurious to the banking system to publish the liability of the officers of banks. Rather than to incorporate such a provision into the statute, it would be better to prohibit officers from borrowing from the bank which they served.

13. I am strictly opposed to the application of civil-service rules to any branch of the Comptroller's department. The Treasurer should be allowed to make his own appointments, since he is better fitted to know the requirements of his office than a commission which is appointed purely on political qualifications.

14. Equity would not sustain a decision which qualified the falsification of accounts merely on the technical ground that there was not stipulated in the statute the name of the Comptroller, as a false entry is a deception insomuch as it falsifies the condition of the institution and therefore defeats the very intent of the law which created the national banking system. An amendment of the law is not what is needed, but an equitable decision.

15. If under the present law it is possible for the stockholders to avoid their just liability by a transfer of stock, an act should be passed preventing such assignment. The present state law of Texas, providing that the liability of stockholders shall not cease for a period of one year, goes to the extreme and does not serve the purpose for which it is intended.

16. The redemption of circulating notes as now handled is not only objectionable from the Treasurer's standpoint, but is unjust to the banker. It often happens that a bank located at a great distance remits funds to cover its circulating notes and is out the use of this money for weeks before it receives the new notes. A postage rate should be fixed with an insurance feature covering this class of business. To answer the question and outline a plan for a change in this system would require a small volume compiled from the data on file in the Comptroller's office, which could be better obtained from that source. It would be practical for the Treasurer to be allowed to assess a penalty of a certain per cent for failure to remit promptly to cover the redemption account.

17. Since bills of the denomination of \$5 are more used than any other, it would seem that there would be no objection to amending

the law to allow a sufficient issue to meet the ordinary requirement at least.

18. The only practical method for the payment of creditors more promptly by failed national banks would be to provide a fund for this purpose. On page 26 of the "Report of the Comptroller for 1907" you will find that national banks have paid creditors 80.83 per cent, averaging a loss of 19.17 per cent. The average time of receiverships covers a period of four years. From this data a feasible plan can be figured, but it will require study and research to arrange the details on an absolutely practical basis. I am not a Democrat, but these figures and the question of payment of creditors bring us very close to depositor's insurance.

19. I can not recommend any changes in the Comptroller's office for the reason that I am not familiar with the workings of this department. The Comptroller is in better position to make such recommendations than anyone not connected with this department.

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OCTOBER 10, 1908.

C. A. Brown,  
President the Marfa National Bank,  
Marfa, Tex.:

Replying to yours of September 26, I do not feel that my opinion on the questions asked will be of much value, as I have not had the time or opportunity to investigate and consider the questions, but you can have it.

1. Bank examiners should be subject to civil-service rules.
2. Should be paid salaries and actual traveling expenses only.
3. Assessments should be based on capital and surplus of banks only.
4. No; the new men should be required to do the work of less importance and volume, at smaller salary, with prospect of more important work at increased salary, to encourage honest effort.
5. Yes; examiners should be required to furnish bond in proportion to trust.
6. I regard this as one of the weakest, most dangerous features of the national banking laws, and unless great wisdom is used in legislating along these lines the honest, capable banker will be placed at a big disadvantage, or opportunity will be given the class of bankers who are disposed to evade the law or cover up their illegal acts to do so successfully. It seems necessary that the Comptroller be given large authority and at the same time great latitude along these lines, and if it can be done he should be made responsible for damage resulting from his abuse of such authority. Distinction should be made between the discount of bills of exchange payable on demand and the discount of commercial and business paper that has a given time to run. The latter paper is not made any more secure because it was given for a valuable consideration, unless it is secured by a lien on the property for which it was given, or property of equal value, outside of the names of the makers and indorsers, and in the absence of any such security the same limitations should operate against the makers of such obligations as does against any other borrower. Even where such paper shows that it is well col-

lateralized, I do not think any bank should ever hold the paper of any one firm, corporation, or individual for more than 25 per cent of its capital stock and surplus combined, including the direct loans as well as such obligations, and where a bank exceeds that limit I think that all the officers and at least four-fifths of the directors should be required to sign a statement that all such paper was taken with consent and that they regard it good and secure. Active officers and employees of banks should never be permitted to owe it one cent. All other officers and the directors should be held strictly within the limits, and officer or director consenting to an excess loan to any other officer or director should become personally liable to the bank and its creditors for the amount of such excess. Criminal penalty should be provided only against those officers and directors who have received some pecuniary benefit from violations, or who have had knowledge of and consented to a willful act.

7. Where the capital is impaired 50 per cent or more the Comptroller should have authority to take any necessary steps to protect the depositors and creditors unless the deficiency is made good at once upon demand, but the Comptroller should exercise discretion in such a case and not be forced by the law to take the extreme steps.

8. Loans to directors should be approved by all the discount committee and might be spread on the minutes of the first meeting of the board of directors after the loans are made and approved by at least a majority of the board by resolution of record. No loan should ever be made by any bank to any of its active officers or employees.

9. National-bank stock should be held by real persons, except where it is taken for debt previously contracted, and then a limit should be placed on the time it may be held by a corporation.

10. National banks had better occupy separate quarters from any other business, but I do not think this alone will prevent the dishonest practice you mention.

11. If the examiners were organized into districts, it would be wise to have duplicates of each report sent to the head of such district in which the bank was situated, to be furnished to the examiner doing the work.

12. No; such publication would not be necessary if the other regulations referred to above were strictly enforced, and would only give the opportunity to "gossips" to play on the ignorance and prejudice of the public.

13. Should be appointed by the Secretary of the Treasury as a result of civil-service examinations, and subject to civil-service regulations.

14. Law should be extended to apply to false reports made to the Comptroller, provided, of course, that such false reports were shown to be willful and not clerical errors.

15. The liability as shareholder should always first be enforced against the holder of record in the bank; then if that fails the right to recover might extend to the assignors of stock within the past six months, provided that some arrangement might be made whereby the Comptroller's consent might be obtained to the transfer, in which case the assignor might be exempt.

16. Banks might be required to designate some reserve agent in a central city where the Government could collect such claims, giving

either a proper receipt or delivering the incomplete currency, and providing a small fine in case of failure to do so.

17. The limit on the issue of five-dollar national-bank notes should be increased to meet the needs of the country.

18. Receivers might, with the approval of the Comptroller of the Currency, be permitted to dispose of the available assets at a small allowance for brokerage, or a creditors' meeting might be called and a board of trustees elected by a majority of the creditors to represent them and act with the receiver, to the end that a value might be placed on all the assets as a guide to the receiver in disposing of them.

19. Bank examiners' districts might be created, to the head of which reports of excess or irregular loans and suspicious transactions or assets of banks in each such district could be reported, and these special reports could then be turned over to a special agent of the Comptroller who could proceed along the lines of the secret service department to find out the true status of these transactions. A capable officer pursuing this kind of an investigation could get information that a bank examiner in the short time he has could never get, and the fact that such a course was employed when banks were supposed to be evading the law, or doing an irregular banking business, would of itself have a good effect.

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Enclosure from C. A. Brown, Marfa, Tex.:

OUR IMPERFECT BANKING SYSTEM AND A REMEDY.

OCTOBER 20, 1908.

No kind of business of any volume or importance, undertaking to meet the needs of commerce, would be attempted by well-informed business men on the same basis that our banking business is done. It matters not how much capital you put in a business, if success is attained you must have some line of credit or arrangement by which you can command additional capital temporarily to meet unnatural or unexpected conditions, otherwise you would have to keep so much idle money on hand at times that your profits would necessarily have to be too large or your business a failure, either of which is unfortunate for the consumer and the country at large. Capital, like labor, has an earning capacity, and the greatest good to all the people is accomplished when you keep the largest per cent of the capital of the country employed. When a merchant or manufacturer, or any other class, undertakes to establish a business of any kind for the employment of capital and labor, one of the first considerations is the basis for credit, and the reputation and ability of its officers to form such financial connections as will insure an outlet or market for its securities in proportion to its volume of business, enabling the institution to use its securities and float its obligations for the use of additional funds on short time, sometimes to lay in large stocks to advantage when orders and trade conditions are good; sometimes to take advantage of discounts and sometimes to meet slow collections. To undertake business without some such arrangement would be considered very unwise, and yet the banking institutions of the country, which are the very foundation and dependence of all its

S. Doc. 404, 61-2—11

industrial and commercial life, are expected to furnish the needed funds to meet the fluctuating conditions of trade, to move all the enormous growing crops, to hold the manufactured products of mills and factories over the dull season when trade is light in order that the factories and mills may run and labor be kept employed, to respond to the needs of trade from every direction, and to keep in position, without a moment's warning, to pay every dollar of their obligations in cash over the counter, because people become panic-stricken and imagine they are unsafe.

As I have said, any other business institution in good condition could take its best securities, negotiate them, and secure a short time loan, but the banks have no one to turn to. It is true banks are required to carry a certain reserve, and I have been asked by those who know but little about such matters, "Why don't you carry all your reserve in cash in your own bank?"

As explained above, money has an earning value, and the greatest good to the greatest number results when the largest per cent of the circulating medium is employed. So there is absolutely no calculating what the damage would be if all the banks would lock up all of the reserve they are required to carry in cash in their vaults. We know that the per cent of the reserve we are permitted to carry in approved reserve cities finds its way finally into the banks of the large central cities, and we know why it does. It is unreasonable to expect the banks of the large reserve centers to hold this money idle at a big expense and risk; they can not send it along further—no other center is open to them—so they do just exactly what any of us would do under the same circumstances, they put it to work for two reasons, that it may reimburse them for what they are out on it and net them a little profit, and for the further reason that the business of the country needs it. Realizing that they are centers and that the funds held largely constitute the reserves of all the banks of the country, the central banks undertake to employ a large per cent of these funds in loans made on call at a nominal interest, taking as security the stocks and bonds of the best corporations and the bonds of the Government, States, counties, districts, and cities. Nobody doubts that this class of security is good in most cases, and call loans on such collateral are supposed to be available. Perhaps the funds could not be invested in any class of securities that could ordinarily be as quickly and easily converted into cash, but in time of panic these funds are no more available for the purpose of relieving the situation than if they were invested in commercial paper on four or six months' time. A man would never borrow money on call if he had to keep the amount in cash all the time, ready to meet it; he expects to either borrow the amount from another bank or individual or sell his securities when called upon for a settlement, and the panic makes each of these courses of conduct impossible. In a panic none of the banks will make loans; it is not a matter of security; the banks will not make loans on any kind of security, and the few individuals who have cash hoarded away, often extracted from the banks for this purpose, select such loans as they want, for reasons of their own, and carry them at rates of interest that are only limited by their modesty. If at such a time the banks should undertake to call their loans and realize on this class of supposed available assets, what

would be the result? Would they get their money? I think not. All that such a policy would end in would be ruinous to the very best collateral in our country, bankrupting the industrial institutions that keep our labor employed and the business world moving.

Of course it would be a glorious opportunity for the man who had money to buy the securities and obligations of all our best industrial and commercial institutions and get control of all that is worth having at about 50 cents on the dollar, or less, of its real value, but the poor workingman who has to live and support his family on his daily earnings would be a beggar, with all his household. That class of our citizens, often widows or men too old or helpless to lead active lives, who have saved from their earnings or the life insurance collected upon the lives of those they depended upon, just barely enough when invested in the stocks and bonds of the good business enterprises of the country to bring them a scant living, would be left penniless. So what can the banks do? Just what they did do. I know some good men who have not given these matters much thought condemn the banks very harshly for what they did in the last panic, and there certainly appears to be good grounds for criticism at least, but I believe the fault is not with the banks, but with the laws. When it is thoroughly understood what the result would have been to the active industrial classes, the producing and laboring classes, and the poorer people, had not the banks met the situation as they did and preserved the credit of our country and its business enterprises, the best of our citizens of all classes will approve of what was done and will give the banks and bankers the credit that they so much deserve, placing the responsibility for the necessity for the extreme measures where it properly belongs, to wit, on the laws and law makers. The truth is, it seems, that we are being represented by two classes in all legislative bodies. At least they are in the majority. One class represents for large fees the big trusts that are asking for all kinds of special favors to serve their own selfish ends. The other class referred to are those who are picking up any old proposition, whether it has any merit or virtue or not, if it is plausible, and will promise something for nothing or appeal to the unthinking classes or arouse the prejudice of one class against another—anything that can be used to soft soap the voter.

So I am compelled to conclude that our banking laws are not perfect and that new legislation to be of any permanent benefit must make all the reserve that all the national banks are required to keep on hand available at all times to meet the very conditions for which a reserve is required and yet keep as much of that reserve employed as possible. The present system of reserve centers coupled with the necessity of investing said reserve in call loans or any other kind of loans dependent upon the fluctuations of the open market is not practical, and it would seem that the most reasonable solution would be the organization of district reserve banks, sub-treasury banking associations, clearing-house associations, or whatever you please to call them, in every section of the country where needed to carry the reserve of national banks in said districts; the stock in such reserve banks to always be owned by banks or individuals, actual residents of such district, and to make no loans except to banks and bankers within its district, and that it be

allowed to invest its funds only in such securities, bonds, stocks, etc., as the Government would allow such district government bank to issue circulation against. I am aware that this idea will not meet with the approval of the large central banks, because it will provide a permanent investment for the best classes of bonds and securities that have heretofore been the basis for large financial transactions and manipulations, furnishing the opportunity of amassing nearly all the enormous fortunes that begin to threaten our form of government, and will also remove the powerful influence because of the control of all the reserve of the banks in a few centers.

Some such a plan must come, and it will come sooner or later, and the sooner the better. The Aldrich-Vreeland bill is along the right line, but is not practical and would be of little value in case of an emergency, for but few banks could have the kind of collateral demanded, and it would take too long to get the issue provided for into circulation, while the reserve of all the banks will be tied up in loans and not available, as in the past. To be available in panic the reserve of all the national banks, or at least a safe per cent of it, must be carried by some government or central district institution whose funds are invested only in such securities as circulation is permitted to issue against. If New York alone could have secured \$200,000,000 additional circulation in the beginning of the panic of 1907, the effect would never have been felt outside that city, and the only way you will ever prevent a panic is by meeting the demands, until the wild, excited depositors are satisfied that you can and will give them their money right now.

Government guaranty and no other guaranty will ever prevent a panic. It may allow the reckless banker to loan up a little closer, and be a little more reckless, using this argument and a high rate of interest paid on deposits to induce people to leave their money, until conditions grow so notoriously bad that the crash will be ten times as bad as any we have ever had.

The whole guaranty proposition has only one virtue, and that is a political claptrap to be used to catch the unthinking voter, and it is not honorable even for that purpose, for it is dishonest and directly opposed to the principles of our Government, if not absolutely unconstitutional, in that it purposed to levy a tax upon one class of our citizens or institutions, not to meet any necessities of the Government, but to pay the debts of another class of citizens or institutions with which the taxed person or institution absolutely had no connection, and in the management of which they had no voice. It is taxation without representation, against which our Government has fought, and its sponsors propose to levy this tax as often and in such amounts as the recklessness of the other fellow makes it necessary, making it possible to take every cent one citizen has and give it to another, without consideration or due process of law, under the guise of a tax, but not for any government purpose or support. If this is constitutional, then our citizens have no property rights or protection under the Constitution. Mr. Bryan gives as his reason for advocating such a law that "there are more depositors than bankers." The same reason might be given by any other Socialist for supporting the laws advocated by the Socialist party. It is unjust because it takes away the advantage of the confidence and esteem of his fellow-

citizen, which has been earned by the honest, capable, conservative banker, perhaps in a life of toil, effort, and privation, and forces him to give the benefit of his knowledge, experience, etc., absolutely without consideration, to one who has done nothing to earn it and is not worthy of it.

It is unwise, because it involves the Government in the private affairs of its citizens; is misleading to the citizen, because it will not prevent panics, but will only have the effect of an opiate and give the dishonest, unsafe banker more latitude to practice his unbusinesslike methods. It is not practical, because the funds raised by such a tax would have to be deposited in banks or invested after all and might be tied up like any other deposit, in which case they would not be available when needed any more than the reserve of the banks was last fall.

The American people are above the average in intelligence; they are not demanding this unjust legislation; all they want is a fair, square deal; this is purely politics, and in the end will go as did other unsound proposed legislation. Give the thinking, honest voter a little time and he will arrive at a proper solution. The average citizen who is intelligent enough to have any bank deposit knows that he receives consideration from his banker for the use of his deposit, that statements to the contrary are absolutely false and are made either because of gross ignorance of the party making them or because he presumes that the voters he is trying to influence are very ignorant or very dishonest. The statement is sometimes made that the banks get the use of the people's money for nothing. Is it no service to the depositor and the public that the banks build expensive vaults and furnish safes and take the surplus idle money that the citizen and the business concerns have to keep on hand, and keep it safely, paying it out in such amounts to suit the depositor, often moving it to and from every section of the country at little or no expense to the depositor or public? Who pays the clerks and bears the necessary expense to conduct this business, and keep and account for all the finances employed in all branches of business as well as Governments? Who puts up the capital necessary and risks it first and then agrees to be responsible for as much more before the depositor shall lose one cent? Who pays to have the cash on hand belonging to the depositors insured against burglars or embezzlement? The service to their customers and the public generally rendered by the banks without one cent direct compensation is not equaled by any other class of business institutions on earth.

Every banker knows that there are hundreds of small accounts that the banks take upon which they lose money because the profit on the small balance carried will not pay the expense of carrying the account and rendering the service that the bank has to render to all its customers alike. Of course, on the entire business the bank has to make a small margin of profit or it would fail in business; but try to figure out for a moment, please, how the depositors and the business world could get along at all without this service and security that the banks furnish absolutely free, not including the value of accommodation for which a charge is made.

OCTOBER, 7, 1908.

H. C. Edrington,

President the Traders National Bank,

Fort Worth, Tex.:

In reply to the questions in your circular letter of September 26, 1908, I will say to your first question:

I have found no fault with the present method of appointing bank examiners by the Comptroller, nor

2. To the fee system.

3. In making assessments I think the law should be changed so as to base the amount on capital and gross assets rather than as the law now provides.

4. There should be sufficient examiners to insure a thorough examination of all banks.

5. The character of all examiners should be well established before appointment, so that no bond would be necessary to protect the Government while acting as temporary receivers.

6. The exception to the limit of total liability of any one debtor to a bank should be bills of exchange drawn in good faith against actually existing values, commercial or business paper when that paper is based on actual business transactions of exchange of values and is in no sense accommodation paper. This exception is very necessary in the South during the movement of cotton. The examiners should be required to inspect all such paper with great care and report to the Comptroller, and he should be given authority to take action when, in his judgment, such loans are imprudent and unsafe.

Directors and officers of the bank should be placed in a different category from general creditors in such cases. A penalty should be provided for violation of such changes as may be recommended, enforceable against officers or directors responsible for such.

7. The Comptroller should have the authority to protect depositors when he discovers impairment of capital, and all deposits made after such discovery should be protected by treating them as special deposits.

8. I do not believe a bank's officers or employees should borrow its money directly or indirectly. While there is more or less objection to the directors borrowing a bank's money, a loan should be made them only after the consent of the entire board.

9. I disapprove of the holding of shares in national banks by any other corporation even when taken in satisfaction of debts.

10. I can see no objection to two or more banking institutions occupying the same building when they are in no way connected with each other.

11. It would be well to require all reports to be made in duplicate, one copy for the examiner when he undertakes the examination of a bank.

12. It would be well in publishing reports of a bank to show the liabilities of its officers and directors collectively. The public should be fully informed of the status of every banking institution.

13. A deputy comptroller of the currency should be appointed by the Secretary of the Treasury as a result of civil-service examination and to be subject to civil-service regulations.

14. The law should be extended so as to apply to false reports made to the Comptroller of the Currency.

15. The law should be changed so as to make it possible to enforce the liability of shareholders, who, having foreseen the insolvency of the bank, have transferred their stock to escape liability.

16. The Treasurer should be authorized to enforce the law requiring the 5 per cent for the redemption of the circulating notes, and that by the appointment of a receiver if no better way can be devised.

17. I do not think it desirable just now to increase the limit of notes of the denomination of \$5. Silver and silver certificates seem to be sufficient for present convenience.

18. The depositors in liquidating banks should be paid as rapidly as possible without sacrificing the assets.

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OCTOBER 8, 1908.

A. R. Heywood,  
President Commercial National Bank,

Ogden, Utah:

I beg to acknowledge receipt of your circular letter of the 26th ultimo and thank you for the opportunity of answering the questions therein contained, and will answer them under the same numerical head.

1. I do not think that civil-service rules or regulations would cure the evils of the present system.

The method of appointing the examiners as at present is all right enough if sufficient care be exercised in the selection and trial out of material.

2. My experience in life has been that appointive officers who draw regular salaries are apt to easily drift into laziness and in the long run better results are obtained by the fee system.

3. The volume of business or gross assets would be more equitable than to have the assessment placed on capital alone.

4. Yes; by all means.

5. Yes.

6. Section 5200 is all right, but like any other good thing, it should not be abused. And the bank examiner should be able to easily know when the apparent authority has gone too far.

Directors or officers of the bank are usually among the best customers and constitute the pushing power of the bank. They should be treated in a way of credit the same as any other creditor and like them, only in a more scrutinizing manner should examiners see that no one risk goes too far. Ample penalties should be provided for violation of any law or rule for the conduct of a bank.

7. The section in question needs revision. Much harm might be done during the three months' leeway given by the Comptroller. But no hard-and-fast rule can be laid down for the reason that no two cases might be exactly alike. This would be another case when sagacity and the experience of the bank examiner would meet the situation.

8. The law is all right as it is. If you say that no officer should be permitted to borrow from his own bank you at once withdraw his business backing and thereby a pushing quality of every bank. For it is the man of affairs who does things that is the lifeblood of any

bank and not the self-satisfied, cautious individual who is too conservative to be of use to his town or anybody else.

9. I am not much in favor of any corporation holding shares in another, and I think it would be wise indeed to provide against the holding of shares of national banks by any other corporation except when taken in satisfaction of debts.

10. Yes.

11. We always keep a duplicate of reports sent to the Comptroller. It should be part of the examiner's duty to see that this corresponds with the original. Duplicates sent direct to the examiner would not remedy the evil.

12. If the liabilities of the officers or directors must be published then of course they would never place their paper in their own bank.

13. I am not persuaded that civil service examinations would prove that he who passes is the best.

14. Yes.

15. If the law does not already cover that, then I think legislation should make it.

16. Yes, and if necessary an examiner should be sent to collect the amount.

17. Yes.

18. Yes; the present rule is cumbersome, expensive, and invites unnecessary delay.

19. There can be no doubt that the work of the office of Comptroller of the Currency has fallen short of satisfying the purpose for which the office was inaugurated.

A bank examiner occupies a most important situation; indeed, with the exception of a judge of a court of general jurisdiction, it would be hard to conceive of any office that requires sounder ability and real skill.

In the first place, he should be of sufficient age and experience to be a man of affairs and should have had a versatile life to have become acquainted with men and situations; and in the second place, should have had sufficient experience behind the counter of a bank to thoroughly understand the inside workings. He should have with him as assistant a trained accountant who should aid him in all the exacting details of an examination.

The examiner himself should be big enough and of sufficient equipoise to test the whole executive force and working of the bank so as to know and report to his chief whether that bank is being conducted on sound principles and in a safe manner so that when that report goes in it should be a reflection and a photograph of the real inner workings of that bank.

At present some political favorite without much reference to his ability, or at least to his executive knowledge, is sent to examine a bank, galloping through so as to earn his fee in the quickest possible moment. He sends on a report which at best is only an endeavor to catch the officers of the bank in some sort of a violation. He either has not sufficient knowledge or no instructions to go over carefully the whole management of the bank and go over it carefully with the officers; at any rate it does not appear to be done. In turn this report gets an answer to the bank officer. It may hit the mark and it may not. Indeed, it oftener goes far and wide of the real matter in question.

I am told, indeed, that prior to the present administration of the Comptroller's office the deputies there had certain forms of correspondence and these were sent out after the receipt of the examiner's report, sometimes fitting the case and very often not. If I recollect correctly the late Central National Bank of Boston, after it was known to be insolvent and its officers had overlooked the law, received the same kind of a letter from the Comptroller's office that many of the best banks in the country have. Indeed, I think the same will apply in the case of the late First National Bank of Topeka, Kans. The reading of the answers sent out to the respective banks on the receipt of the reports from the examiners up to the time of the present administration, would, I think be most interesting.

One trouble is also that the Comptroller's office does not seem to realize that the methods of conducting a bank must necessarily differ in the different sections of the country and the rule that applies to New York and Boston has a right to be reconsidered before being made mandatory in points west of the Mississippi River.

Hoping I have not been too prolix or too critical and not wishing harm to anyone, only paying my little mite toward relieving the situation, I beg to remain, with high esteem,

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OCTOBER 12, 1908.

J. R. Jopling,  
President The First National Bank,  
Danville, Va.:

I am in receipt of your circular letter of September 26 asking our opinion relative to suggested changes in our national banking laws, which I herein respectfully submit.

1. I think the present method of appointing bank examiners best;
- (b) I think not.
2. Salary basis.
3. On capital and surplus.
4. Yes; (b) yes.
5. It might be well to do so.
6. I think it might be well to also limit the amount of this business paper on any one payer, just as loans are at present limited, and also require cognizance to be taken of the strength of the payers; (b) yes; (c) no; (d) yes.
7. Yes; one way of doing this might be by requiring directors to execute acceptable bond for amount of impairment. Another, to require the bank to give public notice of such impairment and amount of actual proper value of unimpaired capital.
8. By requiring a quorum board to approve the loans as to officers; (b) yes; (c) yes.
9. No; our present law permits people to hold stock in national banks, even though they are financially irresponsible beyond their share holdings.
10. I have had no experience in this line, and am not prepared to answer.
11. Yes, it might be well to require duplicate reports for purpose stated.
12. No.

13. No; (b) no.
14. Yes, I think so.
15. I hardly think so, as it would be difficult to know how far back to go.

16. If this deficiency is due to incomplete transactions, caused by a bank having received from the Comptroller money fit for use, and not having received the incomplete currency in redemption, both of which amount to less than the bank's redemption fund, I see no reason for changing the present plan. If the deficiency is due to careless or willful dereliction I think fining the officers would probably correct the evil.

17. Yes, I think the banks are competent to determine whether large or small notes are needed in their vicinity, and their needs should be met.

18. No, I hardly think the Government should assume and meet this liability.

19. No, I am not familiar with the organization of the Comptroller's office.

*Minor changes suggested.*—As I understand the national banking law, the 5 per cent redemption fund in the hands of the Comptroller is purely a fund kept there to redeem our circulation as it is presented. I think the national banks should be allowed 2 per cent interest on the average amount of this fund in the Comptroller's hands not employed in redemption; said 2 per cent interest might be used in partly paying salaries of bank examiners.

All of which is respectfully submitted in reply to your inquiries, and with no intention whatever of in any way assuming to criticise the management of the Comptroller's office.

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OCTOBER 7, 1908.

Geo. S. Brooke,  
President the Fidelity National Bank,  
Spokane, Wash.:

I would answer the questions contained in your circular letter as follows:

1. Civil service for bank examiners is desirable, likewise civil-service regulations, any incompetents now in the service to be required to pass examinations.

2. Fee system is objectionable, but under salary system slow and not overly conscientious examiners might "soldier" in their work. For this reason would prefer per diem basis.

3. Assess capital and gross assets.

4. Favor a force of assistant examiners, as proposed.

5. Yes.

6. (a) This is a difficult question. Believe loans should be restricted, but emergencies sometimes arise when conscientious bank officers find it well-nigh impossible to regulate such matters. Think some exceptions at times are unavoidable. (b) Willful, persistent violations of the law in this respect should be stopped, and the Comptroller given the necessary authority. (c) No. Within proper limits know of no reason why directors should not get accommodations from their own bank; otherwise, they would not act as directors

and the bank would lose the services of many desirable men. Do not approve personally of the officers borrowing and it might be well to restrict them.

7. No. Can think of no way in which any discrimination between old and new depositors could be made.

8. All loans to officers, directors, or employees should be specially passed on by the board of directors before being made, no director, of course, who is interested, being allowed a voice. Loans to officers to be scrutinized even more carefully than loans to directors. Do not believe the money put in as capital should be taken out in loans by officers and directors, but within proper limits think they should be accommodated, as it is often embarrassing and creates obligations for officers of one bank to borrow from another bank.

9. It would be well to prohibit corporations from holding national-bank stocks.

10. No. Associate institutions in adjoining buildings could impose upon examiners equally well.

11. No objection to duplicate reports.

12. Both deputy comptrollers to be appointed by the Secretary of the Treasury, under civil service.

14. Yes.

15. Yes.

16. Require banks to remit upon receipt of notice, before forwarding circulation.

17. See no reason why the limit on five-dollar bills should not be increased, if there is a demand for them.

18. Think this will have to be left to the judgment of the receiver in each case.

The Comptroller should have successful, practical experience as a banker and should have the judgment to harmonize the theory and the practice of banking. No bank can be run on rigid, iron-clad rules, and it is necessary for bank officers to exercise discretion and even at times to violate the principles of sound banking. Letters sent out to conscientious, painstaking bank officers, who have the highest regard for the welfare of their institutions and require advice and assistance rather than brusque reprimands for something they can not help, or which they regret more than anyone, are frequently harsh and undeserved; too formal in their character.

The man who examines reports should be practical rather than theoretical, should read every report carefully, and revise their letters of criticism. It militates against the Comptroller's office when bankers of long years of successful experience receive letters of petty, undeserved criticism in regard to details which are simply matters of discretion with the bank officers and violate no provision of sound banking or of the statutes. The fact should never be lost sight of by the Comptroller's office that some bankers think they know something about how to run their banks and have considerable at stake in protecting the interests of stockholders and depositors. It is well to handle the thieves and incompetents without gloves, but give the honest, capable banker fair treatment and courteous consideration. Have no charge of discourtesy against the present examiners in this district, but think some of the letters from the Comptroller's office would have been just as well if worded a little more courteously.

OCTOBER 10, 1908.

E. G. Crawford,  
Vice-president Vancouver National Bank,  
Vancouver, Wash.:

We beg to reply to your circular letter of September 26 in regard to changes in national banking laws and regulations.

We belong to that class of old-fashioned banks that think most of our troubles come from that class of "get-rich-quick" people, bankers and others, who want to avoid the rigid and plain laws of business principles and the well-earned lessons of the past that should be our guides. We do not believe any officer or director should be a borrower from the bank, and we adhere to this rule in our institution. No bank need fail, it would seem to us, if the laws now laid down were followed, but there is always the question of having the bank follow the law and not evade it. Examiners should be appointed strictly on merit; should be subjected to a rigid examination before a competent board before appointment, and should be paid a salary commensurate with the work performed, which it would seem must vary in different sections of the country. As to whether it would be best to place them under civil service would seem a question, as the Comptroller should have authority to remove them for cause, and that would be hard to do under civil-service rules. Answering your questions in detail we beg to reply as follows:

1. This question we have answered as above.
2. Would think a salary preferable to per diem basis or to the fee now paid. They would not be inclined to skim over the work as they sometimes now do. We have had examiners who wanted us to sit up nights so they might make the next town and examine another bank or two the next day. Surely in such haste good conservative work could not be done.
3. Would think assessments based on capital and surplus most equitable.
4. Would think it wise to have blanket bonds for all examiners to act as receivers, fees to be paid in proportion to liability, and to run for such time as examiner is in charge. Premiums to be met out of a fund to be established and charged all closed banks, each failed or closed bank to pay for the examiner's bond as part of the expense of receiver's fees.
6. We suggest the law be amended to read as follows: "But the discount of bills of exchange, drawn in good faith against actually existing values and for commodities actually sold, when accompanied by shipping receipt or bill of lading, properly insured against fire, and when the amount advanced or loaned against the bill of exchange does not exceed 75 per cent of the sale price of such commodity or face value of the bill of exchange, shall not be considered as money borrowed, provided that the amount so loaned or secured by one firm or individual either directly or indirectly shall not exceed the capital stock of the bank."

We do not think the bank should be allowed to take advantage of that other provision of the act which allows rediscounting of paper and would think a limit of the amount should be made, say 25 per cent of the capital and surplus, and then only by one bank to another for rediscount of various names, none of which should constitute an

excess for either bank. Should think by all means the Comptroller should have authority to forfeit the charter of a bank for making excess loans. As said before, it should be absolutely against the law for officers or directors to owe the bank anything. Would think it should be made a matter of fine for the offending parties or to a forfeiture of charter at the discretion of the Comptroller.

7. Would think the Comptroller, when he finds impairment of capital, should have authority to virtually take charge of the bank, not openly perhaps, but effectively by daily reports, etc. A separate set of books should be kept, or at least the books kept in such way that all the deposits from the time of such notice to the directors to make the deficiency good until the bank is put on its feet or in liquidation should be kept separate and made preferred credits.

8. Answered as above.

9. We think it ought to be made impossible for a corporation to own national-bank shares or for a national bank to own shares in other corporations, except for debts previously contracted.

10. Our idea is that no other business should be carried on in the rooms occupied by national banks. If it was possible, the officers of national banks ought not to be officers of other banking institutions, in the same town at least. The president of national banks should not be president of trust and savings banks and should be absolutely prohibited from doing business in the same room.

11. We did not know reports were permitted on any other banks than the one furnished by the department. Would certainly think the Comptroller would have authority to compel banks to so report.

13. Would recommend that the Secretary of the Treasury have absolute control of all appointments. We are against civil service, however.

14. Yes; where it is willful, but it should not be made a misdemeanor unless serious enough to affect the condition of the bank.

15. Yes, but it can not be done.

16. We think this is not a serious matter and ought to adjust itself when conditions are normal.

17. Can see no reason to limit the amount of denomination of notes which a bank may issue.

18. This a large question. That the long time taken by receivers to pay any dividends of failed banks and the unnecessary secrecy in regard to the assets of the bank, we believe is in some measure responsible for the guaranty-of-deposit idea. We are very much opposed to the guaranty of deposits. There might be worked out some method whereby the receiver of a failed bank could convert the good assets into money other than the slow process of liquidation. There are usually enough good assets in a bank to make a good substantial dividend, if they could be pledged for a loan on a very conservative basis, thus relieving at once considerable distress. If postal savings banks were established, there might be some method worked out for a fund to do this.

19. We have no suggestions to make.

We are in favor of the establishment of a central bank, which should be the only bank of issue. This bank should have branches in all parts of the country, so that no bank would be more than a day's travel to reach it. Let there be organized clearing-house zones

with a competent examiner for each zone who would have entire control of all banks who would be members of this clearing-house zone. Let a national currency be provided for use in these central and branch banks. When necessary, let the banker take his securities to this central or branch bank and obtain currency when needed, and you have solved the currency question at once. We country bankers have at certain times of the year need for some form of credit that can be passed from hand to hand until the returns or credit for our products come back, either from the city banks or from foreign sources. The wheat and other products is just as good a representative of money as bank notes, but can not be handled in the same way. All that is needed is for some ready form of what the people are accustomed to term "money." All the banker needs is some place to pledge his wheat or other paper and receive for a short period some more negotiable form of credit.

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OCTOBER 9, 1908.

F. M. Strong,  
President the Second National Bank,  
Beloit, Wis.:

The receipt of your circular letter, concerning suggested changes in national banking laws is at hand. We hardly feel competent to deal with so large a question in a broad way, for our field is small and our experience in a somewhat narrow range. We are pleased to express ourselves, however, to the best of our ability.

1. We believe the appointment of examiners should be made subject to civil-service rules. It would thus remove the question of politics and tend to a higher plane of ability and training.

The tenure of office need not be beyond a certain age limit.

2. We believe examiners should be paid a fixed salary in each case and all expenses. Let the banks be assessed as they now are.

3. The assessments to pay examiners should be based on capital and gross assets.

4. We think it would be very desirable to proceed as this question indicates.

5. We believe it would be well for an examiner in charge of a failed bank to give a bond for the protection of the Government and the bank.

6. Each maker of an "indirect loan" should be made to come within the limits prescribed by law just the same as the maker of a "direct loan."

The Comptroller should be given authority to take action when loans are being made in excess of the limit.

Officers and directors should not be placed in a different category from general creditors. It would render even more difficult the securing of a highly competent board that it is at present.

We do not believe a penalty should be provided. Let the effort be made rather to prevent the wrongdoing than the pursuit of the wrongdoer.

7. The Comptroller should have authority to protect the depositors. During the three months no new loans need be made and maturing paper could be collected until a sufficient amount could accumulate for

the protection of the depositors. It is possible that any action for the protection of those depositors might be construed as making them "preferred creditors."

8. Officers, directors, or employees should be limited in their borrowing from their own bank just as other customers are limited under the present law. If an officer is entitled to credit, it would be an unnatural proceeding for him to go to some other bank for his loans, just as it would for him to make his deposits with some other bank.

9. We believe it would be wise to provide against the holding of shares of national banks by any other corporation except in cases where taken in satisfaction of debt; but would not be surprised at an unfavorable court decision if the matter ever got before a tribunal.

10. We would not recommend legislating against another banking institution being in the same building with a national association.

11. Would suggest that reports be made in triplicate. One copy for the bank to retain and the other two to be sent to the department.

12. We do not believe it would be wise to publish the liability of officers or directors. We do not favor the heralding of indebtedness.

13. We would make the recommendation concerning the deputies as you suggest.

14. We believe the law should be extended to cover false reports made to the Comptroller.

15. Yes.

16. Let the Treasurer notify the bank in each case how much money he is holding for return to the bank. Upon receipt by him of a draft to cover, he can then forward the currency to the bank.

17. We do not think it desirable to increase the limit of the issue of five-dollar bills. The amount of labor connected with the signing, etc., of bills of small denominations would only be an increased burden.

18. Unable to make any suggestions.

19. We have no suggestions to make relative to changes of organization of the Comptroller's office.

We would like to see adopted more stringent regulations against the habit of allowing overdrafts. The custom of lending money on checks rather than on notes we believe pernicious and bad practice.

While the requirement we are under of keeping a certain percentage of the currency on hand in legal-tender notes is not objected to, we do not favor the rather recent insistence of the department that all the rest of the currency on hand should be regularly separated out and listed as either legal-tender notes or national-bank bills. It requires a large additional amount of clerical work, and we fail to see what useful object is thereby attained unless it helps the examiner in making up his report at his semiannual visits. If it is the "letter of the law," then it should be changed. For years no mention was made of this feature, and not until very recently has it been insisted upon by the department.

Some change should be made in the existing law whereby national banks could be permitted, under certain reasonable and fair restrictions, to loan money on real estate. Much valuable business is lost to national banks on account of this inability to take care of a demand that is perfectly legitimate and absolutely safe if kept in moderate bounds.

OCTOBER 9, 1908.

E. M. Wing,  
Cashier Batavian National Bank,  
La Crosse, Wis.:

We have your circular letter of September 26, to which we are glad to reply, and as far as possible we will note our reply on the margin of the circular.

Replying to question 5, beg to say we believe that examiners should be only temporary receivers of failed banks and that for the shortest possible time. We supposed every one connected with the government business was required to give a sufficient bond.

Replying to questions 6 and 8, beg to say there are a great many cases where the discounting of bills of exchange should be permitted in addition to the usual line of credit. However, it is an exception that is easily misused, and we think that the Comptroller of the Currency should be allowed some discretion as to when this should be permitted and should have authority to compel the repayment of the loan when it appears to be only an evasion of the limit of the law limiting loans.

We do not believe that directors of a national bank should be placed in a different category than other borrowers. If that should be done it would be impossible to get business men who need to borrow money to act as directors of banks, and business men who do not need to borrow money are hard to find in a community the size of La Crosse.

The directors of a bank should be treated the same as other borrowers of the bank, but in case of an excess or illegal loan to them they should be subject to penalty and the loans should be in the knowledge of the whole board of directors. This is accomplished under our system of making a written report each week to the discount committee of all the new loans for the week and showing the total loan to the borrower. At the monthly meeting of the directors these lists, initialed by the discount committee, are examined by each director, and all the board therefore know the total loan of each borrower. If, in addition to this, the bank examiner had authority to call in the board of directors during his examination and require them to examine each note in the files and certify to the genuineness and value of the paper it would be rather difficult for bank officials to manipulate the loans of a bank, and at least the directors could not plead ignorance.

The Comptroller should be given a large amount of discretion in the matter of loans that appear to be excessive and unsafe when not excessive, and he should have authority to make and enforce penalties short of closing a bank.

Officers of a bank should be permitted to borrow only in limited amounts, and we believe our state law which requires that all such loans should be authorized by the full board of directors is the correct system.

Answering 12, we do not believe it would be wise to publish the liability of directors, as such a statement could mean nothing to the public and might be misleading. For instance, in many cases we require our directors to indorse or guarantee paper of concerns in which they are interested where the corporations themselves are entitled to credit. Such a law would mean that we would loan without

such guarantee, where we considered it safe, but it would mean that much less security to us and our depositors.

As an illustration in the case of a former director: He was interested largely in an elevator company, a flouring mill, a can company, tobacco, and lumber company. We were loaning each one an amount that we considered safe, but we were requiring, and he was willing to give his guarantee, which in the aggregate was a large amount. We would be willing to report such loans to the Comptroller, but if we were required to publish the direct and indirect liability of the directors we would in each case have loaned the money without the guarantee. There should be authority for the Comptroller in such cases to require a reduction of loans when he considers it unsafe and the bank can not convince him it is safe.

A great trouble is the inelasticity of the national banking act and the lack of authority of the Comptroller. He should be given greater latitude and be able to enforce his requirements. Some of the present requirements of the law are absurd, like the classifications of paper. None of the banks pay any attention to it and half of the examiners estimate the classes from experience, which is worse than not doing it at all. Some sensible classification should be made and required or else none at all.

This bank was a state bank for forty-four years before we became a national bank in 1904, and we have no hesitation in saying that the supervision of the Wisconsin state banks is superior to that of the national's, and the Wisconsin banking law contains many provisions that might be adopted by the national department with profit.

If the country was divided into districts, small enough so the deputy comptroller in charge could have intimate knowledge of the banks and bankers in his district, as well as the conditions which vary in different sections, it appears to us the supervision could be much better and more like that of our state department.

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OCTOBER 13, 1908.

W. J. Thom,  
Cashier the First National Bank,  
Buffalo, Wyo.:

Replying to your circular of September 26, I beg to say that in our judgment the appointing of bank examiners should be made subject to civil-service rules, beyond all question. Politics should be kept as far from the banking system as possible, and weak timber should not be injected into the service because the individual has a pull. We believe that the salary system would be more satisfactory than the present method of payment by fees, although in our experience we have never had reason to believe that the examiners were cutting their time short because of the method of payment.

It would seem to us that the fair way to assess the expenses would be upon capital, surplus, and profits, as all banks would then pay in proportion to what they had instead of paying unequally as at present.

It would seem that a force of assistant examiners, who were gradually trained to the work and from whom the forces of the

examiners could be recruited as occasion arose, would be a valuable addition to the present plan.

Bank examiners should by all means be required to give good and sufficient surety bonds when in charge of failed banks.

It is the desire of the Government, as we understand it, that the officers of national banks should be under bond, and it has always seemed to us as unreasonable and unwise for them to take an institution in a specially critical condition out of the hands of men who are bonded to protect its interest, and turn it over to other men, probably no wiser and no better, without any such safeguard.

In regard to the limitation upon the discounting of bills of exchange and the purchase of commercial paper, it is exceedingly hard to say where the line should be drawn. If it is made as arbitrary as some of the requirements of the law and the regulations of the department, it will be practically impossible for a commercial bank to do business. At the same time it would seem that some restriction should be placed upon the unlimited handling of this class of paper for individuals or sets of individuals. In all probability the giving of authority to the Comptroller to take action, when in his judgment this provision of the law was being abused, would be sufficient.

We believe that it is unwise and unjust to place directors and officers of a bank in a different category from other customers. If they are not good and responsible men they should not be connected with the bank. If they are, why put a penalty upon them for giving their time and services to the institution? The practical result of such a regulation would be to make it impossible for national banks to get desirable men upon their boards of directors.

We see no reasons why a penalty should not be provided for the violation of any proposed changes in the law, as such changes would appear to have but little force if they did not provide for the punishment of those who violated them.

In regard to the three months' limit within which impairment of capital must be made good, it would seem that the simplest remedy for this difficulty would be to make the time shorter. In any ordinary impairment of capital the deficit can be made good in ten days as well as in three months, as it is probably only necessary to have sufficient time to communicate with absent stockholders. If, therefore, the time limit were materially reduced, the difficulty would be largely removed, in our judgment.

We see no reason for putting a penalty upon a good customer because he happens to be an officer of the bank. We believe it is bad judgment and unwise policy to discriminate between officers and directors, or between either or both of them, and the outside public, for, as stated in answer to a previous paragraph, such policy drives away from the bank the best and most desirable business men. At the same time, we believe that the restrictions in regard to over-loaning to officers and directors should be made as stringent as possible, owing to the fact that, being closely connected with the bank, their influence might make it more easy for them to negotiate excess loans than for an outsider to do so.

It does not seem possible that legislation could be enacted forbidding corporations not organized under the law of the United States from dealing in such stocks as they saw fit. Further than that, such

legislation would destroy a market for bank stocks and possibly considerably impair their selling value. It is probable that it would be wise legislation to forbid the operation of an associated bank in the same building with a national bank, for the reason set forth in your circular.

It might be well to have reports to the Comptroller made in duplicate, but if such a plan were adopted, in common reason the Comptroller's office should discard its present antiquated forms and adopt such as could be used in the ordinary typewriter, so that the duplicates could be made at one operation. With the double sheets and the present ruling it is difficult to make even one copy upon a typewriter, as nearly all work is now done in a first-class office; and to be compelled to make a second copy for the Comptroller's office by hand, as well as the third copy which the bank retains, is rendering an already burdensome report still more inconvenient in its preparation.

The present report in the footing of its column of individual liability of officers and directors shows their collective liability if the figures are inserted.

Deputy comptrollers, as well as bank examiners and as many as possible of the officials connected with the banking system, should be appointed as a result of civil-service examination and not for political reasons.

The law should certainly be extended to apply to any falsification of accounts or reports.

The law should certainly be amended so as to enforce the liability of shareholders, who, having foreseen the insolvency of the bank in which they own stock, transferred it before an assignment was made, in order to escape that liability.

Why not impose a heavy fine from day to day upon banks who do not keep their 5 per cent fund intact? The probabilities are that the Comptroller's office would not have to enforce this payment with the same institution more than once or twice before they would be exceedingly anxious to attend to the matter with promptness.

We are not in a position to express an opinion as to whether the limit in regard to five-dollar bills should be removed or not, as we have never had any difficulty from a shortage of small bills in this locality within the experience of the writer, covering some twenty-five years.

There is no question that it would be of great advantage if some plan could be devised by which liquidating banks can pay their deposits more rapidly. Just what plan can be devised to accomplish this good result it is difficult to say.

We are not in a position to make suggestions as to the organization of the Comptroller's office. It is the experience of bankers, however, that in many cases the rulings and instructions from his office are a cause of much greater dissatisfaction than anything contained in the national-bank act itself. More attention is frequently paid to the letter than to the spirit of the law, and to technical points than to the general efficiency and strength of the institution. A single instance will suffice to make the point plain. A man enters into partnership and invests \$100,000. He is entitled to borrow from his bank to the amount of 10 per cent of its capital. He invests a second time in a second firm, having different assets and different liabilities and in no

way connected with the other. Immediately he becomes a handicap and a burden to his partners, as neither one can borrow more than 5 per cent of his bank's capital, owing to the fact that the Comptroller's office will count the loans made by both firms as against the individual, although both loans are represented by separate assets and the two firms are in no way connected. Carried to a logical conclusion, when this man has invested in ten partnerships, no one of them can borrow to exceed 1 per cent of the capital of the bank with which it does business, and the natural result is that this class of business is driven away from the national banks. This may seem a peculiar state of affairs, but is common in the range country, where a large flock master will organize half a dozen or more of small companies, turning over to each the amount of stock that it can care for. Each one is separate and independent; each one has its own assets and pays its own debts, but under the ruling of the Comptroller's office they are debarred from doing business with a national bank except to a nominal amount, because the indebtedness of all the companies, although based as stated on separate assets, is added together and juggled into an excess loan.

# INDEX.

## REPLIES RECEIVED FROM NATIONAL BANK EXAMINERS.

	Page.
Joseph W. Norvell, Colorado Springs, Colo.	9-10
F. L. Klein, Denver, Colo.	10-12
J. K. McDonald, Athens, Ga.	12-16
Miller Weir, Jacksonville, Ill.	16-18
William D. Frazer, Warsaw, Ind.	18-20
Wilfrid P. Jones, Algona, Iowa	20-22
Percy H. Johnson, Lebanon, Ky.	22
W. L. Yerkes, Paris, Ky.	23
C. W. Curtis, Dexter, Me.	23-24
Alfred Ewer, Boston, Mass.	24-25
James A. Cline, Lincoln, Nebr.	26-28
Charles A. Hanna, New York, N. Y.	28-31
John M. Hale, Chandler, Okla.	31-33
Claud Gatch, Salem, Oreg.	34
J. C. Johnson, Hot Springs, S. Dak.	35-37
R. L. Van Zandt, Fort Worth, Tex.	37-39
Frank L. Fish (former examiner), Vergennes, Vt.	39
Eugene T. Wilson, Seattle, Wash.	39-41
M. A. Kendall, Parkersburg, W. Va.	41

## REPLIES RECEIVED FROM CLEARING HOUSE ASSOCIATIONS.

	Page.
Chicago (Ill.) Clearing House Association, by Joseph T. Talbert, president	43-50
San Antonio (Tex.) Clearing House Association, by Ernest S. Brown, manager..	50-51

## REPLIES RECEIVED FROM STATE BANKING OFFICIALS.

	Page.
M. C. Bergh, commissioner of banking, Madison, Wis.	53-54
Harry B. Henderson, state bank examiner, Cheyenne, Wyo	54-56



## GENERAL INDEX TO ALL REPLIES.

### A.

	Page.
Alamogordo, N. Mex., reply of president First National Bank of.....	115-118
Algona, Iowa, reply of Wilfrid P. Jones, national bank examiner of.....	20-22
Anderson, H. J., president First National Bank, Alamogordo, N. Mex., reply of.....	115-118
Answers of banking officials in general .....	57-180
Answers of clearing-house associations .....	43-51
Answers of national-bank examiners.....	9-41
Answers of state banking officials.....	53-56
Assistant cashiers, replies of. ( <i>See Cashiers.</i> )	
Associations, clearing-house, replies from.....	43-51
Athens, Ga., reply of J. K. McDonald, national-bank examiner of.....	12-16

### B.

Baltimore, Md., reply of president National Exchange Bank of.....	87-89
Bankers, reply of secretary of group 1 of Oklahoma.....	133-138
Bank examiners, national, replies of.....	9-41
Bank officials in general, replies of, arranged by States.....	57-180
Bank officials, state, replies of.....	53-56
Bank of New York, replies of president of.....	122-125
Batavian National Bank of La Crosse, Wis., reply of cashier of.....	176-177
Beal, Thomas P., president Second National Bank of Boston, Mass., reply of.....	95-96
Beloit, Wis., reply of president Second National Bank of.....	174-175
Bergh, M. C., commissioner of banking, Madison, Wis., reply of.....	53-54
Boston, Mass., reply of president of Eliot National Bank of.....	89-90
Boston, Mass., reply of Alfred Ewer, national-bank examiner of.....	24-25
Boston, Mass., reply of vice-president National Shawmut Bank of.....	90-94
Boston, Mass., reply of vice-president State National Bank of.....	94-95
Boston, Mass., reply of president Second National Bank of.....	95-96
Boston, Mass., reply of president Webster and Atlas National Bank of.....	96-97
Bourland, O. P., president National Bank of Pontiac, Ill., reply of.....	71-73
Brooke, George S., president Fidelity National Bank of Spokane, Wash., reply of.....	170-171
Brown, C. A., president Marfa National Bank of Marfa, Tex., reply of.....	159-165
Brown, Ernest S., manager San Antonio (Tex.) Clearing House Association, reply of.....	50-51
Buffalo, Wis., reply of cashier First National Bank of.....	177-180
Burnes, L. C., president Burnes National Bank of St. Joseph, Mo., reply of.....	105-106
Burrage, H. L., president Eliot National Bank of Boston, Mass., reply of....	89-90

### C.

California, Los Angeles, reply of cashier Citizens National Bank of.....	57-58
California, San Francisco, reply of vice-president Wells-Fargo-Nevada Na- tional Bank of.....	60-62
California, Santa Barbara, reply of cashier First National Bank of.....	58-59
Calumet, Mich., reply and inclosure of cashier First National Bank of.....	97-101
Cashier, Citizens National Bank of Los Angeles, Cal., reply of.....	57-58
Cashier First National Bank of Santa Barbara, Cal., reply of.....	58-59
Cashier First National Bank of Perry, Fla., reply of.....	65-66
Cashier First National Bank of Quitman, Ga., reply of.....	66-67
Cashier Delaware County National Bank of Muncie, Ind., reply of.....	73-75

	Page.
Cashier Peoples National Bank of Clay Center, Kans., reply of.....	80-82
Cashier First National Bank of Calumet, Mich., reply of.....	97-101
Cashier City National Bank of Duluth, Minn., reply of.....	101-102
Cashier First National Bank of Ridgewood, N. J., reply of.....	113-115
Cashier First National Bank of Page, N. Dak., reply of.....	125-127
Cashier Cleveland National Bank of Cleveland, Ohio, reply of.....	127-128
Cashier (assistant) Mahoning National Bank of Youngstown, Ohio, reply of.....	128-129
Cashier First National Bank of Wellston, Ohio, reply of.....	129-131
Cashier City National Bank of McAlester, Okla., reply of.....	131-133
Cashier National Bank of Marlow, Okla., reply of.....	133-138
Cashier First National Bank of Webster, Pa., reply of.....	151-153
Cashier First National Bank of Lead, S. Dak., reply of.....	155-156
Cashier Batavian National Bank of La Crosse, Wis., reply of.....	176-177
Cashier First National Bank of Buffalo, Wyo., reply of.....	177-180
Chandler, Okla., reply of John M. Hale, national bank examiner of.....	31-33
Charleston, S. C., reply of R. G. Rhett, Peoples National Bank of.....	153-155
Cheyenne, Wyo., reply of Harry B. Henderson, state bank examiner of.....	54-56
Chicago, Ill., reply of president First National Bank of.....	67-71
Church, C. H., cashier Delaware County National Bank of Muncie, Ind., reply of.....	73-75
Citizens National Bank, Los Angeles, Cal., reply of cashier of.....	57-58
City National Bank, Duluth, Minn., reply of cashier of.....	101-102
City National Bank, McAlester, Okla., reply of cashier of.....	131-133
Clay Center, Kans., reply of cashier Peoples National Bank of.....	80-82
Clearing House Associations, replies of.....	43-51
Cleveland, Ohio, reply of cashier of Cleveland National Bank of.....	127-128
Cline, James A., national bank examiner, Lincoln, Nebr., reply of.....	26-28
Coffeyville, Kans., reply of president First National Bank of.....	82-85
Colorado, Colorado Springs, reply of Joseph W. Norvell, national bank examiner of.....	9-10
Colorado, Denver, reply of F. L. Klein, national bank examiner of.....	10-12
Commercial National Bank, Ogden, Utah, reply of president of.....	167-169
Commissioner of Banking, Madison, Wis., reply of.....	53-54
Comptroller of the Currency, letter to, inclosed in reply.....	100-101
Connecticut, Hartford, reply of president of Hartford National Bank.....	62-65
Contents, table of.....	3
Craig, Frank, cashier City National Bank, McAlester, Okla., reply of.....	131-133
Craig, R. E., president New Orleans National Bank, New Orleans, La., reply of.....	85-87
Crawford, E. G., vice-president Vancouver National Bank, Vancouver, Wash.....	172-174
Curtis, C. W., Dexter, Me., national bank examiner, reply of.....	23-24

## D.

Dallas, Pa., replies of president First National Bank of.....	139-141
Danville, Va., reply of president First National Bank of.....	169-170
Delaware County National Bank of Muncie, Ind., reply of cashier of.....	73-75
Denver, Colo., reply of F. L. Klein, national bank examiner of.....	10-12
Dexter, Me., reply of C. W. Curtis, national bank examiner of.....	23-24
Docking, William, cashier Peoples National Bank, Clay Center, Kans., reply of.....	80-82
Driscoll, R. H., cashier First National Bank, Lead, S. Dak., reply of.....	155-156
Duluth, Minn., reply of cashier City National Bank of.....	101-102

## E.

Edrington, H. C., president Traders National Bank, Fort Worth, Tex., reply of.....	166-167
Eliot National Bank, Boston, Mass., reply of H. L. Burrage, president of.....	89-90
Elko, Nev., reply of president First National Bank of.....	109-111
Ewer, Alfred, national bank examiner, Boston, Mass., reply of.....	24-25
Examiners, replies of national bank. (See index, p. 181.).....	9-41
Examiner, state bank, Harry B. Henderson, Cheyenne, Wyo., reply of.....	54-56

## F.

	Page.
Farmers and Mechanics National Bank, Philadelphia, reply of president of ..	141-145
Farmers National Bank, Malone, N. Y., reply of vice-president of ..	121-122
Federal National Bank, Pittsburg, Pa., reply of president of ..	148-151
Fidelity National Bank, Spokane, Wash., reply of president of ..	170-171
First National Bank, Santa Barbara, Cal., reply of cashier of ..	58-59
First National Bank, Perry, Fla., reply of cashier of ..	65-66
First National Bank, Quitman, Ga., reply of cashier of ..	66-67
First National Bank, Chicago, Ill., reply of president of ..	67-71
First National Bank, Sioux City, Iowa, reply of president of ..	77-79
First National Bank, Coffeyville, Kans., reply of president of ..	82-85
First National Bank, Calumet, Mich., reply of president of ..	97-101
First National Bank, Elko, Nev., reply of president of ..	109-111
First National Bank, Ridgewood, N. J., reply of president of ..	113-115
First National Bank, Alamogordo, N. Mex., reply of president of ..	115-118
First National Bank, Santa Fe, N. Mex., reply of president of ..	119-121
First National Bank, Page, N. Dak., reply of cashier of ..	125-127
First National Bank, Wellston, Ohio, reply of cashier of ..	129-131
First National Bank, Dallas, Pa., reply of president of ..	139-141
First National Bank, Webster, Pa., reply of cashier of ..	151-153
First National Bank, Lead, S. Dak., reply of cashier of ..	155-156
First National Bank, Nashville, Tenn., reply of president of ..	156
First National Bank, Farwell, Tex., reply of vice-president of ..	157-159
First National Bank, Danville, Va., reply of president of ..	169-170
First National Bank, Buffalo, Wyo., reply of cashier of ..	177-180
Fish, Frank L., former national bank examiner, Vergennes, Vt., reply of ..	39
Florida, Perry, reply of cashier First National Bank of ..	65-66
Forgan, James B., president First National Bank, Chicago, Ill., reply of ..	67-71
Fort Worth, Tex., reply of H. C. Edrington, president Traders National Bank of ..	166-167
Fort Worth, Tex., reply of R. L. Van Zandt, national bank examiner of ..	37-39
Frazer, William D., national bank examiner, Warsaw, Ind., reply of ..	18-20

## G.

Gatch, Claud, national bank examiner, Salem, Oregon, reply of ..	34
General, replies from banking officials in ..	57-180
Georgia, Quitman, reply of cashier First National Bank of ..	66-67
Georgia, Athens, reply of J. K. McDonald, national bank examiner of ..	12-16
German-American Bank, St. Paul, Minn., reply of the president of National ..	102-105
Girard National Bank, Philadelphia, reply of the president of ..	145-146
Griggs, Herbert L., president of the Bank of New York, replies of ..	122-125
Group 1, Oklahoma bankers, reply of secretary of, Marlow, Okla ..	133-138

## H.

Hale, John M., national bank examiner, Chandler, Okla., reply of ..	31-33
Hanna, Chas. A., national bank examiner, New York City, reply of ..	28-31
Hartford National Bank, Hartford, Conn., reply of the president of ..	62-65
Henderson, Harry B., state bank examiner, Cheyenne, Wyo., reply of ..	54-56
Heywood, A. R., president Commercial National Bank, Ogden, Utah, reply of ..	167-169
Hill, T. W., cashier Cleveland National Bank, Cleveland, Ohio, reply of ..	127-128
Hot Springs, S. Dak., reply of J. C. Johnson, national bank examiner of ..	35-37
House, Clearing, Association, replies of ..	43-51
Hubbard, Ackley, president First National Bank of Sioux City, Iowa, reply of ..	77-79
Hunter, R. B., cashier First National Bank, Webster, Pa., reply of ..	151-153
Huttig, C. H., president Third National Bank, St. Louis, Mo., reply of ..	107

## I.

Illinois, Chicago, reply of president of Clearing House Association ..	43-50
Illinois, Chicago, reply of president of First National Bank of ..	67-71
Illinois, Jacksonville, reply of Miller Weir, national bank examiner of ..	16-18
Illinois, Pontiac, reply of president of the National Bank of ..	71-73
Indiana, Muncie, reply of cashier Delaware County National Bank ..	73-75
Indiana, Warsaw, reply of William D. Frazer, national bank examiner of ..	18-20

	Page.
Iowa, Algona, reply of Wilfrid P. Jones, national bank examiner of.....	20-22
Iowa National Bank of Ottumwa, reply of vice-president of.....	75-77
Iowa, Sioux City, reply of president of First National Bank of.....	77-79

## J.

Jacksonville, Ill., reply of Miller Weir, national bank examiner of.....	16-18
Jones, Wilfrid P., national bank examiner, Algona, Iowa, reply of.....	20-22
Johnson, J. C., national bank examiner, Hot Springs, S. Dak., reply of.....	35-37
Johnson, Percy H., national bank examiner, Lebanon, Ky., reply of.....	22
Jopling, J. R., president First National Bank, Danville, Va., reply of.....	169-170
Jordan, J. C., vice-president Iowa National Bank, Ottumwa, Iowa, reply of.....	75-77

## K.

Kansas, Clay Center, reply of cashier Peoples National Bank of.....	80-82
Kansas, Coffeeville, reply of president First National Bank of.....	82-85
Kendall, M. A., national bank examiner, Parkersburg, W. Va., reply of.....	41
Kentucky, Lebanon, reply of Percy H. Johnson, national bank examiner of.....	22
Kentucky, Paris, reply of W. L. Yerkes, national bank examiner of.....	23
Klein, F. L., national bank examiner, Denver, Colo., reply of.....	10-12

## L.

La Crosse, Wis., reply of cashier of Batavian National Bank of.....	176-177
Lead, S. Dak., reply of cashier of First National Bank of.....	155-156
Lebanon, Ky., reply of Percy H. Johnson, national bank examiner of.....	22
Lewis, H. W., president Farmers and Mechanics National Bank of Philadelphia, reply of.....	141-145
Lincoln, H. P., cashier First National Bank, Santa Barbara, Cal., reply of.....	58-59
Lincoln, Nebr., reply of James A. Cline, national bank examiner of.....	26-28
Linthicum, D. A., vice-president First National Bank of Farwell, Tex., reply of.....	157-159
Lipman, F. L., vice-president Wells-Fargo Nevada National Bank, San Francisco, reply of.....	60-62
Lorshbough, W. J., cashier First National Bank, Page, N. Dak., reply of.....	125-127
Los Angeles, Cal., reply of cashier Citizens National Bank of.....	57-58
Louisiana, New Orleans, reply of president New Orleans National Bank of.....	85-87
Lush, James W., president National German American Bank, St. Paul, Minn., reply of.....	102-105
Lyman, J. P., president Webster and Atlas National Bank, Boston, Mass., reply of.....	96-97

## M.

Madison, Wis., reply of M. C. Bergh, commissioner of banking.....	53-54
McAlester, Okla., reply of cashier City National Bank of.....	131-133
McDonald, J. K., national bank examiner, Athens, Ga., reply of.....	12-16
Mahoning National Bank, Youngstown, Ohio, reply of assistant cashier of.....	128-129
Maine, Dexter, reply of C. W. Curtis, national bank examiner of.....	23-24
Malone, N. Y., reply of vice-president Farmers National Bank of.....	121-122
Manager San Antonio, Texas, clearing-house association, reply of.....	50-51
Manufacturers National Bank of Newark, N. J., replies of president of.....	111-113
Marfa, Tex., reply and inclosure of president Marfa National Bank of.....	159-165
Marlow, Okla., reply of T. P. Martin, jr., cashier of.....	133-138
Martin, T. P., jr., cashier and secretary group 1 Oklahoma bankers, Marlow, Okla., reply of.....	133-138
Maryland, Baltimore, reply of president National Exchange Bank of.....	87-89
Massachusetts, Boston, reply of President Eliot, National Bank of.....	89-90
Massachusetts, Boston, reply of vice-president National Shawmut Bank of.....	90-94
Massachusetts, Boston, reply of Alfred Ewer, national bank examiner of.....	24-25
Massachusetts, Boston, reply of president Second National Bank of.....	95-96
Massachusetts, Boston, reply of vice-president State National Bank of.....	94-95
Massachusetts, Boston, reply of President Webster and Atlas National Bank of.....	96-97
Merchants National Bank, Portland, Oregon, reply of J. Frank Watson of.....	138-139

	Page.
Michigan, Calumet, reply and inclosure of cashier First National Bank of.....	97-101
Minnesota, Duluth, reply of cashier City National Bank of.....	101-102
Minnesota, St. Paul, reply of president National German American Bank of.....	102-105
Missouri, St. Joseph, reply of President Burnes, National Bank of.....	105-106
Missouri, St. Louis, reply of president Third National Bank of.....	107
Muncie, Ind., reply of cashier Delaware County National Bank of.....	73-75
Murray, Lawrence O., Comptroller of the Currency, letter to .....	100-101

## N.

Nashville, Tenn., reply of president First National Bank of.....	156
National bank examiners, replies of. ( <i>See</i> Index, p. 181).....	9-41
National Bank of Pontiac, Ill., reply of president of.....	71-73
National Exchange Bank, Baltimore, Md., reply of president of.....	87-89
National German American Bank, St. Paul, Minn., reply of president of.....	102-105
National Shawmut Bank, Boston, Mass., reply of vice-president of.....	90-94
Nebraska, Lincoln, reply of James A. Cline, national bank examiner of.....	26-28
Nebraska, Omaha, reply of vice-president Omaha National Bank of.....	107-109
Nevada, Elko, reply of president First National Bank of.....	109-111
Newark, N. J., reply of president Manufacturers National Bank of.....	111-113
Newcomer, Waldo, president National Exchange Bank of Baltimore, Md., reply of.....	87-89
New Jersey, Newark, reply of president Manufacturers National Bank of.....	111-113
New Jersey, Ridgewood, reply of cashier First National Bank of.....	113-115
New Mexico, Alamogordo, reply of president First National Bank of.....	115-118
New Mexico, Santa Fe, reply of president First National Bank of.....	119-121
New Orleans, La., reply of president New Orleans National Bank of.....	85-87
New York City, reply of president The Bank of New York of.....	122-125
New York City, reply of Charles A. Hanna, national bank examiner of.....	28-31
New York, Malone, reply of vice-president Farmers National Bank of.....	121-122
North Dakota, Page, reply of cashier First National Bank of.....	125-127
Norvell, Joseph W., national bank examiner, Colorado Springs, Colo., reply of.....	9-10

## O.

Officials, reply from banking, in general.....	57-180
Officials, state banking, replies of.....	53-56
Ogden, Utah, reply of president Commercial National Bank of.....	167-169
Ohio, Cleveland, reply of cashier Cleveland National Bank of.....	127-128
Ohio, Wellston, reply of cashier First National Bank of.....	129-131
Ohio, Youngstown, reply of assistant cashier Mahoning National Bank of.....	128-129
Oklahoma, Chandler, reply of John M. Hale, national bank examiner of.....	31-33
Oklahoma, Marlow, reply of T. P. Martin, jr., cashier of .....	133-138
Oklahoma, McAlester, reply of cashier City National Bank of.....	131-133
Omaha, Nebr., reply of vice-president Omaha National Bank of.....	107-109
Oregon, Portland, reply of Merchants National Bank of.....	138-139
Oregon, Salem, reply of Claud Gatch, national bank examiner of.....	34
Ottumwa, Iowa, reply of vice-president Iowa National Bank of.....	75-77

## P.

Page, N. Dak., reply of cashier First National Bank of.....	125-127
Palen, R. J., president First National Bank Santa Fe, New Mex., reply of .....	119-121
Paris, Ky., reply of W. L. Yerkes, national bank examiner of.....	23
Parkersburg, W. Va., reply of M. A. Kendall, national bank examiner of... .....	41
Pennsylvania, Dallas, reply of president First National Bank of.....	139-141
Pennsylvania, Philadelphia, reply of president Farmers and Mechanics Na- tional Bank of.....	141-145
Pennsylvania, Philadelphia, reply of president Girard National Bank of.....	145-146
Pennsylvania, Philadelphia, reply of president Philadelphia National Bank of.....	146-148
Pennsylvania, Pittsburgh, reply of president Federal National Bank of.....	148-151
Pennsylvania, Webster, reply of cashier First National Bank of.....	151-153
Peoples National Bank, Charleston, S. C., reply of R. G. Rhett, of.....	153-155
Peoples National Bank, Clay Center, Kans., reply of cashier of.....	80-82
Perry, Florida, reply of cashier of First National Bank of.....	65-66

	Page.
Philadelphia, Pa., reply of president Farmers and Mechanics National Bank of.....	141-145
Philadelphia, Pa., reply of president Girard National Bank of.....	145-146
Philadelphia, Pa., reply of president National Bank of.....	146-148
Plume, J. W., president Manufacturers National Bank, Newark, N. J., reply of.....	111-113
Pontiac, Ill., reply of president National Bank of.....	71-73
Portland, Oreg., reply of J. Frank Watson, Merchants National Bank of.....	138-139
President, Chicago Clearing House Association, reply of.....	43-50
President, vice, Wells Fargo Nevada National Bank, San Francisco, Cal., reply of.....	60-62
President, Hartford National Bank, Hartford, Conn., reply of.....	62-65
President, First National Bank, Chicago, Ill., reply of.....	67-71
President, National Bank of Pontiac, Ill., reply of.....	71-73
President, vice, Iowa National Bank, Ottumwa, Iowa, reply of.....	75-77
President, First National Bank, Sioux City, Iowa, reply of.....	77-79
President, First National Bank, Coffeyville, Kans., reply of.....	82-85
President, New Orleans National Bank, New Orleans, La., reply of.....	85-87
President, National Exchange Bank, Baltimore, Md., reply of.....	87-89
President, Eliot National Bank, Boston, Mass., reply of.....	89-90
President, vice, National Shawmut Bank, Boston, Mass., reply of.....	90-94
President, vice, State National Bank, Boston, Mass., reply of.....	94-95
President, Second National Bank, Boston, Mass., reply of.....	95-96
President, Webster and Atlas National Bank, Boston, Mass., reply of.....	96-97
President, National German American Bank, St. Paul, Minn., reply of.....	102-105
President, Burns National Bank, St. Joseph, Mo., reply of.....	105-106
President, Third National Bank, St. Louis, Mo., reply of.....	107
President, vice, Omaha National Bank, Omaha, Nebr., reply of.....	107-109
President First National Bank, Elko, Nev., reply of.....	109-111
President Manufacturers National Bank, Newark, N. J., reply of.....	111-113
President First National Bank, Alamogordo, N. Mex., reply of.....	115-118
President First National Bank, Santa Fe, N. Mex., reply of.....	119-121
President, vice, Farmers National Bank, Malone, N. Y., reply of.....	121-122
President Bank of New York, N. Y., replies of.....	122-125
President First National Bank, Dallas, Pa., reply of.....	139-141
President Farmers and Mechanics National Bank, Philadelphia, reply of.....	141-145
President Girard National Bank, Philadelphia, reply of.....	145-146
President Philadelphia National Bank, Philadelphia, reply of.....	146-148
President Federal National Bank, Pittsburg, Pa., reply of.....	148-151
President First National Bank, Nashville, Tenn., reply of.....	156
President, vice, First National Bank, Farwell, Tex., reply of.....	157-159
President Maria National Bank, Marfa, Tex., reply of.....	159-165
President Traders National Bank, Fort Worth, Tex., reply of.....	166-167
President Commercial National Bank, Ogden, Utah, reply of.....	167-169
President First National Bank, Danville, Va., reply of.....	169-170
President Fidelity National Bank, Spokane, Wash., reply of.....	170-171
President, vice, Vancouver National Bank, Vancouver, Wash., reply of.....	172-174
President Second National Bank, Beloit, Wis., reply of.....	174-175
Prince, W. I., cashier City National Bank, Duluth, Minn., reply of.....	101-102

## Q.

Questions in letter sent to all national banks.....	5-8
Quitman, Ga., reply of cashier First National Bank of.....	66-67

## R.

Ransom, Matt C., vice-president Farmers National Bank, Malone, N. Y., reply of.....	121-122
Reeves, Francis B., president Girard National Bank, Philadelphia, reply of.....	145-146
Replies from national bank examiners.....	9-41
Replies from clearing house associations.....	43-51
Replies from state banking officials.....	53-56
Replies from banking officials in general.....	57-180
Rhett, R. G., People's National Bank, Charleston, S. C., reply of.....	153-155

	Page.
Ripley, Alfred L., vice-president State National Bank, Boston, Mass., reply of.....	94-95
Ridgewood, N. J., reply of cashier First National Bank of.....	113-115
Roberts, W. J., assistant cashier Mahoning National Bank, Youngstown, Ohio, reply of.....	128-129
Rue, L. L., president Philadelphia National Bank, Philadelphia, reply of. ....	146-148

## S.

Saint Joseph, Mo., reply of president Burnes, National Bank of.....	105-106
Saint Louis, Mo., reply of president Third National Bank of.....	107
Saint Paul, Minn., reply of president National German-American Bank of.....	102-105
Salem, Oreg., reply of Claud Gatch, national bank examiner of.....	34
San Antonio, Tex., reply of manager Clearing House Association of.....	50-51
San Francisco, Cal., reply of vice-president Wells Fargo Nevada National Bank of.....	60-62
Santa Barbara, Cal., reply of cashier First National Bank of.....	58-59
Santa Fe, N. Mex., reply of president First National Bank of.....	119-121
Sears, Francis B., vice-president National Shawmut Bank, Boston, Mass., reply of.....	90-94
Seattle, Wash., reply of Eugene T. Wilson, national bank examiner of.....	39-41
Second National Bank, Beloit, Wis., reply of president of.....	174-175
Second National Bank, Boston, Mass., reply of president of.....	95-96
Secretary Group 1, Oklahoma bankers, reply of.....	133-138
Selden, Joseph W., cashier First National Bank, Calumet, Mich., reply and inclosure of.....	97-101
Sellers, George C., cashier First National Bank, Wellston, Ohio, reply of.....	129-131
Sioux City, Iowa, reply of president First National Bank of.....	77-79
Smith, Oscar J., president First National Bank, Elko, Nev., reply of.....	109-111
South Carolina, Charleston, reply of R. G. Rhett, Peoples National Bank of.....	153-155
South Dakota, Hot Springs, reply of J. C. Johnson, national bank examiner of.....	35-37
South Dakota, Lead, reply of cashier First National Bank of.....	155-156
Spencer, L. F., cashier First National Bank, Ridgewood, N. J., reply of.....	113-115
Spokane, Wash., reply of president Fidelity National Bank of.....	170-171
State banking officials, replies of.....	53-56
State National Bank, Boston, Mass., reply of vice-president of.....	94-95
States, replies of banking officials in general by.....	57-180
Stevens, H. W., president Hartford National Bank, Hartford, Conn.....	62-65
Strong, F. M., president Second National Bank, Beloit, Wis.....	174-175

## T.

Table of contents.....	3
Talbert, Joseph T., president Chicago Clearing House Association, reply of.....	43-50
Tennessee, Nashville, reply of president First National Bank of.....	156
Texas, Fort Worth, reply of president Traders National Bank of.....	166-167
Texas, Fort Worth, reply of R. L. Van Zandt, national bank examiner of.....	37-39
Texas, Marfa, reply and inclosure of president Marfa National Bank of.....	159-165
Texas, San Antonio, reply of manager Clearing House Association of.....	50-51
Third National Bank, St. Louis, Mo., reply of president of.....	107
Thom, W. J., cashier First National Bank, Buffalo, Wyo., reply of.....	177-180
Traders' National Bank, Fort Worth, Tex., reply of president of .....	166-167

## U.

Utah, Ogden, reply of president Commercial National Bank of.....	167-169
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## V.

Vancouver, Wash., reply of vice-president Vancouver National Bank of.....	172-174
Van Zandt, R. L., national bank examiner Fort Worth, Tex., reply of.....	37-39
Vermont, Vergennes, reply of Frank L. Fish, former national bank examiner of.....	39
Vice-presidents of national banks, replies of. See Presidents.	
Virginia, Danville, reply of president First National Bank of.....	169-170

## W.

	Page.
Warsaw, Indiana, reply of William D. Frazer, national bank examiner of....	18-20
Washington, Seattle, reply of Eugene T. Wilson, national bank examiner of....	39-41
Washington, Spokane, reply of president Fidelity National Bank of.....	170-171
Washington, Vancouver, reply of vice-president Vancouver National Bank of.....	172-174
Waters, R. J., cashier Citizens' National Bank, Los Angeles, Cal., reply of....	57-58
Watson, J. Frank, Merchants' National Bank, Portland, Oreg., reply of.....	138-139
Watts, F. O., president First National Bank, Nashville, Tenn., reply of....	156
Weaver, W. L., cashier First National Bank, Perry, Fla., reply of.....	65-66
Webster and Atlas National Bank, Boston, Mass., reply of president of.....	96-97
Webster, Pa., reply of cashier First National Bank of.....	151-153
Weir, Miller, national bank examiner, Jacksonville, Ill., reply of.....	16-18
Wells Fargo Nevada National Bank, San Francisco, Cal., reply of vice-president of.....	60-62
Wellston, Ohio, reply of cashier First National Bank of.....	129-131
West Virginia, Parkersburg, reply of M. A. Kendall, national bank examiner of.....	41
Wettack, J. T., president First National Bank, Coffeyville, Kans., reply of..	82-85
Wilson, Eugene T., national bank examiner, Seattle, Wash., reply of.....	39-41
Wing, E. M., cashier Batavian National Bank, La Crosse, Wis., reply of....	176-177
Wisconsin, Beloit, reply of president Second National Bank of.....	174-175
Wisconsin, La Crosse, reply of cashier Batavian National Bank of.....	176-177
Wisconsin, Madison, reply of M. C. Bergh, commissioner of banking of.....	53-54
Wright, George R., president First National Bank, Dallas, Pa., reply of....	139-141
Wyoming, Buffalo, reply of cashier First National Bank of.....	177-180
Wyoming, Cheyenne, reply of Harry B. Henderson, state bank examiner of..	54-56

## Y.

Yerkes, W. L., national bank examiner, Paris, Ky., reply of.....	23
Young, H. L., cashier First National Bank, Quitman, Ga., reply of.....	66-67
Young, Hugh, president Federal National Bank, Pittsburg, Pa., reply of....	148-151
Youngstown, Ohio, reply of assistant cashier Mahoning National Bank of....	128-129

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# HEARINGS BEFORE THE NATIONAL MONETARY COMMISSION ON SUGGESTED CHANGES IN THE ADMINISTRATIVE FEATURES OF THE NATIONAL BANKING LAWS.

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DECEMBER 2 AND 3, 1908.



## TABLE OF CONTENTS.

Statements of—	Page.
Cortelyou, Hon. George B .....	195
Kane, Thomas P .....	196
Murray, Lawrence O .....	268
Reynolds, George M .....	294
Porter, William H .....	321
Reynolds, Arthur .....	339
Swinney, E. F .....	352
Hamilton, John L .....	357
McCord, J. A .....	359
Cox, W. V .....	373
S. Doc. 404, 61-2—13	193



## NATIONAL MONETARY COMMISSION.

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WASHINGTON, D. C.,  
*Wednesday, December 2, 1908—10 o'clock a. m.*

The commission met, pursuant to adjournment, at the rooms of the Finance Committee, United States Senate, Washington, D. C.

Present, Senators Aldrich (chairman), Burrows, Hale, Knox, Daniel, Teller, and Money; Representatives Vreeland (vice-chairman), Overstreet, Burton, Weeks, Bonyngé, Smith, Padgett, Burgess, and Pujo.

Present, also, Hon. George B. Cortelyou, Secretary of the Treasury; Hon. L. A. Coolidge, Assistant Secretary of the Treasury; Mr. Lawrence O. Murray, Comptroller of the Currency; Mr. Thomas P. Kane, Deputy Comptroller of the Currency; Mr. W. J. Fowler, Deputy Comptroller of the Currency; and Mr. F. F. Oldham, of the Comptroller's office.

Present, also, at the invitation of the commission, the following officers and representatives of the American Bankers' Association:

Mr. George M. Reynolds, president of the American Bankers' Association, president of the Continental Bank of Chicago.

The legislative committee of the association, consisting of Mr. Arthur Reynolds, chairman, president Des Moines National Bank, Des Moines, Iowa; Mr. E. F. Swinney, president First National Bank, Kansas City, Mo.; Mr. J. A. McCord, vice-president Third National Bank, Atlanta, Ga.; Mr. John L. Hamilton, Hoopeston, Ill.; and Mr. W. V. Cox, president Second National Bank, Washington, D. C.

Also the following bankers present at the invitation of the commission:

Mr. William H. Porter, president Chemical National Bank, New York City; Mr. Thomas P. Beal, president Second National Bank, Boston, Mass.; and Mr. Ernest A. Hamill, president Corn Exchange National Bank, Chicago, Ill.

### STATEMENT OF HON. GEORGE B. CORTELYOU, SECRETARY OF THE TREASURY.

Secretary CORTELYOU. Mr. Chairman, what I shall say will be very brief. At the meeting of your commission at Narragansett Pier, where your chairman asked me to appear, I presented very informally some suggestions looking to amendments of the national

banking act. We have since extended those somewhat, and to-day I take the opportunity of transmitting them to you more formally, and have asked the Comptroller and some of his staff to be here, so that they may take part in such discussion of these suggestions as the commission may think desirable. Accompanying the specific suggestions are explanatory data, which will give some idea of the scope and purpose of the suggestions. Those of us who are here will be very glad to give you any information that we can, but I want to emphasize the fact that quite a number of these suggestions are of minor importance. At the same time they will tend to clear up the difficulties we have. In a few cases they relate to matters that are so old that they ought to be taken out of the law; they have no application to present conditions. In a number of instances we regard the suggestions as quite important. But there are two points I want to emphasize, and I think that when the Comptroller comes he will go into them in some detail.

Underlying all of these suggestions is the very important fact that under the present laws the comptroller can resort to only one or two very drastic penalties in the case of failure to comply with the law. In the last resort he can appoint a receiver or close an institution. In other words, he has but two alternatives—of toleration of existing conditions, however bad, or closing the bank. There are a number of cases where, if there were certain intermediate penalties, conditions could be very much improved. It is to that condition that I want to ask your particular attention; and the comptroller, as I have said, will go into that matter in considerable detail.

Now, with your permission, Mr. Chairman, I shall ask the deputy comptroller, Mr. Kane, to take up the suggestions section by section; and when the Comptroller himself comes he can give his views.

#### **STATEMENT OF MR. THOMAS P. KANE, DEPUTY COMPTROLLER OF THE CURRENCY.**

The CHAIRMAN. State your position for the record, Mr. Kane.

Mr. KANE. I am Deputy Comptroller of the Currency.

The first recommendation submitted relates to section 5240—compensation of national-bank examiners. [Reading:]

“Section 5240, United States Revised Statutes, compensation of national-bank examiners:

“The method of compensating bank examiners should be changed from a fee to a salary or per diem and expense basis. The present fee system is not conducive to the best results. A bank examination to be effective should be made without notice to the officers of the bank; but, with a view to minimizing expenses, an examiner under the fee system maps out a regular route of travel, and examines the banks along such route in sequential order, so that it is possible for

any bank on his list to locate him at any time on the route and to anticipate about when he will reach that bank for examination. When an examiner enters a town in which there are two or more banks, his presence in one of the banks is immediately known in the others, and it is also known that they will be examined in order. This knowledge enables a bank to prepare for the examiner's coming, and destroys in a measure the efficacy of examinations without warning.

"If the law were changed to a salary or per diem and expense basis, an examiner could vary the order of his examinations so that it would be impossible for a bank to know when to expect a visit from him.

"The present system to a great extent is also conducive to superficiality in examinations, the earnings of the examiner being dependent upon the number of examinations made. The tendency of this is to increase the number of examinations at the expense of thoroughness. This temptation would be minimized under a salary or per diem basis, and an examiner could be depended upon to devote as much time to each bank as is necessary to make a thorough examination. A change from the fee to a salary or per diem system of compensation would also contribute greatly to the effectiveness of examinations in other respects.

"A sum sufficient to cover the salaries or per diem and expenses of examiners should be appropriated by Congress, and the banks be required to reimburse the Treasury in the same manner as they are required by the act of June 20, 1874, to reimburse the Government the cost of assorting and redeeming their circulating notes. Each bank should be assessed annually or semiannually by the Comptroller for its proportionate share of the cost of examinations during the preceding six or twelve months. The assessment should be based upon capital and a percentage of the gross assets of each bank, and not upon capital stock alone, as now.

"There is a great inequality of assessments based wholly upon capital stock under the present fee system of compensation. To illustrate: A bank with a capital stock of \$25,000 and \$200,000 of assets is required to pay as great a fee as a bank with a capital of \$50,000 and \$1,000,000 of assets. This inequality is a frequent source of protest by the smaller banks and of complaint by the examiners.

"In reserve cities, under the present fee system, the fee is based upon the capital of a bank, with an additional allowance of 1 or 2 cents upon each thousand dollars of the average gross assets, as shown by the reports of condition of the bank for the preceding year. In some nonreserve cities there are banks with gross assets equal to if not greater than the gross assets of some of the banks in reserve cities; but the fee in the former case is based on capital and assets, while in the latter it is based wholly on capital.

"Examiners should be classified or graded, and their compensation should vary according to the importance of their assignments.

"The salaries or per diem of examiners might be graded on the lines of their present net compensation. The difference between their net and gross fees would cover expenses.

"While such an arrangement would not increase the compensation of the examiners over their present allowance, a change from the fee

to a salary system would probably make examinations more expensive to the banks, for the reason that the force of examiners would have to be increased; because where an examiner now devotes one day to a hurried examination of a bank, in many cases he would be expected to employ more time in the interest of greater thoroughness.

"Provision might also be made for assistant examiners at a lower rate of compensation. This would not only furnish necessary assistance in many cases, but would also afford an excellent school of training for young men to acquire experience in the examination of banks, and qualify themselves for the position of bank examiner. Some very excellent examiners have acquired their knowledge and experience in this manner. It would not, however, be necessary for every examiner to have an assistant.

"Examiners should also be required to give a bond. Examiners are placed in charge of the cash and other assets of failed banks, and frequently remain in control for several days pending the appointment and qualification of the permanent receiver. While instances of dishonesty on the part of examiners have been very rare in the past, there have been examiners who have been charged with embezzlement of the bank's cash while in their custody for counting."

Senator MONEY. Mr. Chairman, will it be best to ask questions as this reading goes on, or shall we wait until Mr. Kane gets through?

The CHAIRMAN. Perhaps we had better wait until he gets through on this one subject before we ask any questions.

Mr. KANE. This is the end of that subject.

The CHAIRMAN. Have you a statement showing the earnings of the various examiners?

Mr. KANE. Yes, sir.

The CHAIRMAN. And showing the range of compensation?

Mr. KANE. Do you mean showing the extent of their territory?

The CHAIRMAN. No; the range of receipts, the range of compensation—just what net compensation they now receive.

Mr. KANE. Yes, sir. I have a summary of about what they receive. There are five examiners who receive less than \$2,000.

The CHAIRMAN. Where are they located?

Mr. KANE. This statement does not show. I should have to look over the list to tell you. They are scattered over the country.

Senator HALE. How many have you in all? Can you tell before you start?

Mr. KANE. We have about 95 examiners actively employed, and about 105, I think, in all. Fourteen receive over \$2,000 but less than \$3,000; 18 over \$3,000 and less than \$4,000; 30 over \$4,000 and less than \$5,000; 13 over \$5,000 and less than \$6,000; 6 over \$6,000 and less than \$7,000; 2 over \$7,000 and less than \$8,000; 2 over \$8,000 and less than \$9,000. There are 3 who receive between \$18,000 and \$19,000.

The CHAIRMAN. Each?

Mr. KANE. Yes, sir.

The CHAIRMAN. Is that net?

Mr. KANE. No, it is gross. These are gross fees.

Senator TELLER. Where were they located?

Mr. KANE. The three last-mentioned examiners are located in New York City and Chicago. The Chicago examiner covers St. Paul and Minneapolis and Milwaukee.

Mr. BONYNGE. What expenses do they have to pay out of the gross income?

Mr. KANE. All of their expenses—clerk hire, traveling expenses, etc.

Mr. BONYNGE. They have to pay their own traveling expenses, do they?

Mr. KANE. Traveling expenses, subsistence, clerk hire, and everything else.

Mr. WEEKS. They maintain an office, do they not?

Mr. KANE. Some of them. In New York they employ five or six assistants, some of whom are high-priced men. I do not think the net compensation to the New York examiners exceed each \$10,000.

The CHAIRMAN. I think it desirable to have the net figures in your statement.

Senator MONEY. I should like to ask a question, Mr. Chairman. I would like to ask the comptroller how he grades these compensations?

Mr. KANE. The law provides for that. In certain cases the fee is based entirely on capital, and in other cases, in reserve cities and in certain States and Territories, it is fixed by the Secretary of the Treasury upon the recommendation of the Comptroller of the Currency. The law so provides.

Senator MONEY. That is what I wanted to know. How do you do it? What is the basis?

Mr. KANE. We take the five reports of condition of a bank for the preceding year and get its average gross assets, then we allow a percentage, 1 or 2 cents on each thousand dollars of gross assets, in addition to the assessment on the capital. I have a statement here showing just how they are fixed:

“Examiners of all banks in the central reserve cities and reserve cities are compensated as follows:

“An annual assessment of 2 cents on each \$1,000 of average gross liabilities, as shown by the five reports of condition of the preceding year; also for each examination, an additional fee proportioned to the capital at the time of examination as follows:

“Capital of \$100,000 and not exceeding \$300,000, \$50.

“Capital exceeding \$300,000 and not exceeding \$500,000, \$60.

“Capital exceeding \$500,000 and not exceeding \$750,000, \$80.

“Capital exceeding \$750,000 and under \$1,000,000, \$100.

"Capital of \$1,000,000, \$120 each examination, and \$1 additional for every \$100,000 of capital in excess of \$1,000,000.

"Examiners appointed to examine banks located in the States of Nevada, Montana, Idaho, and the Territories of New Mexico and Arizona are compensated at the rate of \$50 for banks of less than \$100,000 capital, and \$75 for banks of \$100,000 capital and less than \$200,000, and \$100 for banks of \$200,000 capital, except that when the aggregate liabilities at the time of examination are \$1,000,000 or over, then at the rate of 1 cent for \$20,000 of such assets, in addition to the assessment proportioned to capital."

Senator MONEY. Does the Secretary or the comptroller assign a certain field to each one of these bank examiners?

Mr. KANE. The comptroller.

Senator MONEY. And then do they keep him there from year to year or do they change the field?

Mr. KANE. They change the field occasionally, but the most of them are retained in the same districts. The comptroller assigns to each examiner about as many banks as he thinks he can examine.

Senator HALE. How many of these examiners should you say give their entire time to this duty in the smaller banks in the country districts and States? Do your examiners give their entire time?

Mr. KANE. No, sir; some districts would not require their entire time. We frequently detail one examiner into another district to take up work that has gotten in arrears by reason of the examiner being sick or by reason of his detail to the Department of Justice in connection with criminal cases, or some special work of that kind.

Senator HALE. My question does not go to that. My question goes to the point whether, in these sparsely settled districts, your examiner is engaged in any other vocation besides his duty as examiner?

Mr. KANE. I do not know of any examiners who are.

Senator HALE. Then they give their entire time to it if needed?

Mr. KANE. If needed; yes, sir.

Senator HALE. Do you know anything about the practice, habit, or usage in country districts of examiners adding to their compensation (not government compensation, but adding to their return and income) by acting as experts and accountants, and giving considerable time to outside duties which add to their income aside from that received from the Government?

Mr. KANE. Yes, sir.

Senator HALE. Has your attention been called to that?

Mr. KANE. There are some who do extra work of this kind; but we never permit that to be done if it interferes with their regular work. Boards of directors will request the examiner to make an examination of the bank for them. We permit that to be done, and the bank pays them, of course, extra for that service, through the comptroller's office.

Senator HALE. They may go into an outside bank, a state bank or a private institution, and examine it?

Mr. KANE. Yes, sir; but they are mostly national banks that are examined in that way.

Senator HALE. Does your new scheme (in order that we may get it in detail) propose to cut that off, and to have a force of employees at some fixed, stipulated compensation, who shall give their entire time to this service and nothing else?

Mr. KANE. Yes, sir. That would be necessary if the force were placed on a salary basis.

Senator HALE. Would that not be a good thing in the service?

Mr. KANE. I think so.

Senator HALE. If they did not piece out their income by other work outside?

Mr. KANE. Yes, sir.

Senator HALE. I ask these questions because I had my attention called to that matter in my own State.

Mr. PADGETT. I should like to ask Mr. Kane a question, Mr. Chairman. I understood you a moment ago to say that the directors of a bank frequently requested that the bank examiner should make an examination for them?

Mr. KANE. Yes, sir.

Mr. PADGETT. Do you mean of the same bank of which the examiner had previously made an examination for the Government?

Mr. KANE. Yes; it is generally in his own district.

Mr. PADGETT. So that in such cases the directors recognized that the first examination was incomplete and was not satisfactory?

Mr. KANE. Not at all; not at all.

Mr. PADGETT. Why did they want to pay for a fuller one, then?

Mr. KANE. The examination that they make for them is more in the nature of an audit of the bank, such as a public accountant would make.

Senator MONEY. Mr. Kane, if you submitted a list of salaries here, would you have as wide a range as you have paid in the past—from \$18,000 and \$19,000 down to \$1,800?

Mr. KANE. I think it would be a very difficult matter to grade the salaries in the law. My idea would be to let the last section of the law remain as it is and have the compensation fixed by the Secretary of the Treasury on the recommendation of the comptroller. Then you could have any number of grades. Another reason is that some examiners are not employed their entire time. We have to have some special men who are experts in a particular line to send to a bank that may be in bad shape and get the board of directors together and make them straighten out unsatisfactory conditions. Those men

are not employed continuously, and you could not very well put them on an annual salary.

The CHAIRMAN. Have you a list that shows the net compensation of these gentlemen?

Mr. KANE. I have one here. It is in rather crude shape. It shows the gross and the net income, the cost of transportation, the cost of subsistence, the cost of clerical hire, and the number of examinations made in the year. This is based upon the fiscal year ending with June last.

The CHAIRMAN. You had better put that into the record. What is the range of net compensation?

Mr. KANE. The range is to \$19,000, as stated a moment ago. It varies from \$2,000 up.

The CHAIRMAN. I mean the net compensation.

Mr. KANE. I do not know; I have not figured out the net compensation; but I have a statement here showing that in each individual case.

Mr. MURRAY. Mr. Chairman, the net compensation is about an average of one-third less than the gross.

The CHAIRMAN. The percentage would vary, I suppose, according to the locality?

Mr. MURRAY. It varies a little. The total is about a third less than the gross.

Mr. BURTON. The examiners are compelled to file statements of their expenses, are they?

Mr. KANE. No, sir. We have nothing to do, under the present law, with their expenses.

Mr. BURTON. How can you tell, then, what the net compensation is?

Mr. KANE. During the summer we sent out a circular letter to all the examiners, asking them to give us this information—their gross fees, transportation expenses, subsistence, clerk hire, etc.—and this statement is made up from those returns.

The CHAIRMAN. You will give us that for the record?

Mr. KANE. Yes; I will have a copy of this made.

The statement referred to is as follows:

<i>Summary of compensation of examiners for the year ended June 30, 1908.</i>	
Number of examinations.....	12,024
Compensation received.....	
Transportation expenses.....	\$37,155.49
Subsistence expenses.....	51,689.94
Clerical expenses.....	67,903.14
	156,748.57
Net compensation.....	293,302.69

Mr. OVERSTREET. What is the general form of your recommendation—a straight salary, without arrangement for expenses, or a salary plus expenses?

Mr. KANE. A salary plus expenses.

Mr. OVERSTREET. And is that expense account to be actual expenses, rendered on vouchers?

Mr. KANE. Actual expenses; yes, sir.

Mr. BONYNGE. Do I understand that you would not favor fixing the salary by statute?

Mr. KANE. I do not see how we could arrange it in that way.

Mr. BONYNGE. Would it not be possible to arrange them in a certain number of classes and fix the salaries so that they would be graded according to the classes?

Mr. KANE. On the basis of a year's employment it might be; yes, sir.

Mr. BONYNGE. But your recommendation contemplates that these men shall give their entire time to the service?

Mr. KANE. Those who are engaged in regular examinations. But take, for instance, Hawaii and Alaska and Porto Rico: We have an examiner who has, in Alaska, two banks. He makes four examinations in a year. In Porto Rico the examiner has one bank. He examines that bank twice a year. We have two examiners in Alaska; because the two banks are so far apart that it would not pay one man to examine both.

Mr. BONYNGE. They could be put in a class by themselves, could they not?

Mr. KANE. They could be put in a class by themselves.

Mr. BONYNGE. And a different arrangement made in regard to their compensation?

Mr. KANE. Yes, sir; and also in the case of the special men we send around the country on special work. They are not employed continuously.

Mr. BONYNGE. Even that could be arranged for, could it not, by a special arrangement?

Mr. KANE. We could make some special arrangement for them.

Mr. BONYNGE. And then the others arranged into different classes? Would not that be feasible?

Mr. KANE. Oh, yes; it would be feasible, but I do not know that you could arbitrarily fix the grade in the law.

Mr. SMITH. The growth in population and increase in the number of banks would necessitate frequent changes in the law.

Senator MONEY. Mr. Kane, would it not be possible to have so many classes, with each class having a salary fixed by statute, and allow the comptroller or the Secretary to assign to classes those men who proved efficient? You recognize the fact that there is a general prejudice against an executive officer having a sort of sliding scale of salaries. That is considered to be a sort of a vicious principle upon which to pay people. It is thought that we ought to let them know what they are going to get, as a general thing. In this case it

might be absolutely necessary, as you suggest. I am not questioning that; but I am just speaking of the general principle, you know—that generally it is not a good plan.

Mr. KANE. If you could group all of the small banks together and assign examiners to examine that class of banks, group all the larger or medium-sized banks together, and all the reserve city banks together, then you could grade them in classes. But one examiner will have country banks, another examiner will have medium-sized and reserve city banks, and another one will have reserve city banks altogether, so that it is difficult to separate them in that way.

Senator MONEY. I admit the difficulty.

Mr. OVERSTREET. Do these examiners give no bonds now?

Mr. KANE. No, sir; they never have been required to give bonds.

Mr. OVERSTREET. When an examiner is placed in charge of a failed bank, in the nature of a temporary receiver, what, if any, bond does he then give?

Mr. KANE. If he is simply a temporary receiver he is not required to give a bond at all.

Mr. OVERSTREET. So that, from the time the bank is taken over by an examiner until it is finally put in the hands of a regular receiver there is no bond given?

Mr. KANE. There is no bond; no, sir.

Senator MONEY. And I believe you stated in your remarks that there had been cases of embezzlement by these examiners when temporarily in charge?

Mr. KANE. Not when in charge of failed banks. Money was taken from cash in active banks.

Senator MONEY. Not when they were acting as receivers of failed banks?

Mr. KANE. Not when acting as receivers of failed banks.

The CHAIRMAN. Does the plan suggested by the department contemplate a change in the method of appointment of examiners or in their tenure of office?

Mr. KANE. No, sir.

The CHAIRMAN. They are appointed now by the comptroller?

Mr. KANE. They are appointed by the comptroller, with the approval of the Secretary.

The CHAIRMAN. And you make no suggestions of changes as to methods?

Mr. KANE. I have no suggestions to make in regard to that.

The CHAIRMAN. They are appointed for how long a time?

Mr. KANE. The tenure of appointment is not fixed at all.

The CHAIRMAN. They are removable at the pleasure of the comptroller?

Mr. KANE. At the pleasure of the comptroller.

The CHAIRMAN. And he assigns them to duties anywhere in the United States, as he sees fit?

Mr. KANE. Yes, sir.

Mr. WEEKS. Have you considered dividing the country into districts, and placing a chief examiner or a deputy comptroller in charge of each district?

Mr. KANE. No, sir.

Mr. WEEKS. And having the examiners in that district report to him, and letting him make comparisons of the reports?

Mr. KANE. No, sir; but Mr. Murray, the comptroller, has made an arrangement of that character which he is putting into force.

The CHAIRMAN. Of just what character do you mean?

Mr. KANE. Mr. Murray can explain that better than I can.

The CHAIRMAN. Perhaps, then, you had better go on with your next topic, and we will later hear Mr. Murray.

Mr. WEEKS. I would like to ask Mr. Kane one more question, Mr. Chairman. You stated, among the objections to the present method of examiners performing their duty, that they followed the same course and went from one bank to another each time they made the examination, so that the banks could determine just when they would be examined. Is there any reason for their following that course each time?

Mr. KANE. Simply from considerations of economy of traveling expenses. They are at one end of the State, and map out a route of travel to economize their expenses.

Mr. WEEKS. There is not any other reason why they should not jump from one place to another?

Mr. KANE. No other reason; no, sir. Of course, under the present system, it is easy for a bank to locate an examiner at any time. They can tell, by figuring on how many banks he has to examine, just when he will reach that bank, and make preparations accordingly.

Mr. WEEKS. Yes; but why should he follow exactly the same route each time? Why should he not change his route?

Mr. BONYNGE. It is money in his pocket.

Mr. KANE. Simply because it is money in his pocket; that is all.

Mr. OVERSTREET. His itinerary is fixed by himself, and not by another officer?

Mr. KANE. Yes, sir.

Senator HALE. Before you leave that feature, Mr. Kane, let me ask you whether you or the comptroller or the comptroller's office have formulated into a proposed statute the provisions which you want carried out?

Mr. KANE. No, sir.

Senator HALE. I ask that because the only way that this commission can act is by direct legislation—statutory law. Is there any

reason why, in the comptroller's office, you should not formulate and present to us a statute that covers your desires, so that we may then consider them?

Mr. KANE. I think that could be done.

Senator HALE. You have not yet done that?

Mr. KANE. No, sir.

Senator HALE. But you see no reason why you should not do it?

Mr. KANE. No, sir.

Senator HALE. We can only act by statute; and I, for one, should be very glad, Mr. Chairman, if, before we get through here, the comptroller's office in consultation with the Secretary would formulate for us a definitive statute that we can make the basis of our consideration when we come to take up and act on the matter. You know of no reason why that can not be done?

Mr. KANE. No, sir. I think that can be done.

Senator HALE. Covering not only this feature, but all the features embraced in what you desire for the comptroller's office.

The CHAIRMAN. I assume that that will be done.

Senator HALE. It ought to be done.

The CHAIRMAN. Yes. Are there, in your judgment, advantages to be secured in changing examiners from one section of the country to another, Mr. Kane?

Mr. KANE. There are some; but I think the disadvantages are greater than the advantages. It takes an examiner some little time to get a thorough knowledge of the paper that he handles in the banks; and after he has gone through a district two or three times he becomes familiar with it. He knows what it is worth. He becomes acquainted with the financial responsibility of the borrowers and the securities.

The CHAIRMAN. That is both an advantage and a disadvantage, I take it.

Mr. KANE. Sometimes where an examiner, because of his long stay in one district, becomes too well acquainted with the bankers, he takes too much for granted. In that case a change might be desirable.

Mr. PADGETT. Do they, as a matter of fact, pass upon the solvency of paper?

Mr. KANE. Yes; they pass on the worth of all the paper they find in the bank. They estimate its value. If there are any losses estimated, the report contains a list of the losses and the paper on which it is estimated.

Mr. PADGETT. The reason I asked you the question is this: Some years ago, on the failure of a bank in my home town, it was found that the cashier had abstracted \$105,000 out of the bank on one-name paper of his relatives, and some seven or eight names, every one of which was absolutely insolvent, and was not paying even a poll tax;

and not a cent of property, either personal or real, was taxable to them.

The CHAIRMAN. Do the examiners report to the comptroller upon paper that they think is of doubtful value?

Mr. KANE. They do not always list that paper, but they criticise it in general terms, so as to give you the amount of paper of that character that is in that bank. If there is any paper that is especially bad or doubtful, they mention it in detail.

The CHAIRMAN. And if they think a bank is carrying too much paper of one kind, do they report that?

Mr. KANE. Yes, sir.

The CHAIRMAN. What does the department do in cases of that kind?

Mr. KANE. Where we find that a bank is carrying too much paper of one kind, we require them to reduce it.

The CHAIRMAN. Suppose they decline?

Mr. KANE. The comptroller has no power to enforce such a requirement.

Senator HALE. You mean he can do nothing unless he stops the bank?

Mr. KANE. He can do nothing at all.

Senator HALE. There is no intermediate penalty?

Mr. KANE. No, sir.

Senator KNOX. Under what provision of the statute does the comptroller assume the function of passing upon the credit of customers of a bank?

Mr. KANE. There is no provision of statute at all on that point.

Senator KNOX. Then why does he do it?

Mr. KANE. He has a right to pass upon the solvency or insolvency of the bank, or whether the capital is intact or not.

Senator KNOX. Suppose there are two notes in a bank from going concerns that are apparently solvent: Does the comptroller assume the function of criticising one of those notes as against the other?

Mr. KANE. If there is any question raised about the paper, he does.

Senator KNOX. Raised by whom? By the examiner?

Mr. KANE. By the examiner.

Senator KNOX. Under what authority of law does the examiner have the right to pass on the relative solvency of the paper of going concerns that are meeting their obligations regularly?

Mr. KANE. Under the authority which requires him to examine and report the condition of the bank, he gives an expression of his judgment as to what that paper is worth.

Senator KNOX. Do you think the authority to report upon the condition of a bank involves the right to criticise and discriminate be-

tween the paper of the customers of the bank who are paying their debts regularly as they mature in the ordinary course of business?

Mr. KANE. If the paper is good, it does not.

Senator KNOX. Who is to determine that—the directors or the examiner?

Mr. KANE. The examiner.

Senator KNOX. It is the examiner's business to determine on the solvency of the bank.

Mr. KANE. Certainly. It is the examiner's business to determine the value of the paper.

Senator KNOX. I have known some cases of the comptroller's doing that, and I wanted to know what the authority of the law was.

Mr. KANE. It is only under the general authority conferred upon examiners to ascertain and report the condition of the bank; and he does that to his best judgment.

The CHAIRMAN. If the examiner finds that the directors have been exercising their functions improperly or imperfectly, does he report that to the comptroller?

Mr. KANE. Yes, sir; he reports everything that is subject to criticism.

The CHAIRMAN. He undertakes to say whether the directors are performing their duties properly or not?

Mr. KANE. He reports whether the directors have board meetings and attend to the affairs of the bank, or leave them entirely in the hands of a president or cashier.

The CHAIRMAN. Whether they perform their duties intelligently or otherwise?

Mr. KANE. No; I do not know that he does that. If the directors neglect their duty by not attending board meetings and looking after the affairs of the bank, he makes some comment on that.

The CHAIRMAN. What does the comptroller do in such cases? If the examiner reports that the bank directors are performing their duties in a way that he thinks is not proper, how does the department undertake to regulate that?

Mr. KANE. We simply call the attention of the directors to the fact that they are not performing their duty as the law contemplates that they should.

The CHAIRMAN. You have no control over them?

Mr. KANE. No, sir.

The CHAIRMAN. You do not understand that the department has any control over the directors?

Mr. KANE. No; we have no way of forcing them to perform their duties properly.

Senator HALE. Is that one of the things that you want—that you shall be given power to enforce a duty of that kind?

Mr. KANE. I do not know that there is any recommendation of that kind. It is one of the things which the comptroller has tried to bring about—to compel directors to give more attention to the affairs of the bank. But I do not think there is anything in these recommendations on that subject.

Mr. WEEKS. Mr. Kane, is there anything in the law that makes it obligatory or even necessary for a director to attend a board meeting?

Mr. KANE. No; but the law contemplates that he shall give the affairs of the bank attention, see that the law is observed, and know something about the character of its loans, and all that; and how can he do that if he does not attend the board meetings?

Mr. WEEKS. Very frequently much more easily than by attending board meetings. Do you not think it would be possible for a director to be very valuable to a bank and yet never attend a board meeting?

Mr. KANE. I do not know whether he would be performing his duty or not in not attending board meetings.

Mr. WEEKS. What is there in the law that makes it obligatory for a director to attend a board meeting?

Mr. KANE. There is nothing in the law that compels him to attend; but the law contemplates that he shall look after the affairs of the bank, and he can not do that if he never attends a meeting.

Mr. WEEKS. That he shall be familiar with the affairs of the bank?

Mr. KANE. Yes, sir.

Mr. WEEKS. But that does not necessarily mean making himself familiar by attending a board meeting, does it?

Mr. KANE. I think that would be the best way for him to become familiar with its affairs—to attend board meetings and discuss all the paper and loans and securities of the bank.

Senator KNOX. Is there anything in the law stating even that he shall be familiar with the business of the bank? Does not the law simply say that there shall be a board of directors consisting of a certain number of people, and leave it to the general law to define what the duties of the directors are to institutions, and when they cease to live up to their duties, and when they are negligent? I can not find anything in the statute which says anything at all about the duty of a director.

Mr. KANE. The courts have passed upon what the general duties of directors are.

Senator HALE. What general law is there, Senator Knox, covering this question?

Senator KNOX. There is not any law defining the duties of directors at all. The statute dealt with the subject of directors as it was settled by the general law.

Senator HALE. Not under statute?

Senator KNOX. No; not under statute law; but the courts have determined what the duties of directors are. They vary under different circumstances. What might be gross negligence in one case would be due diligence in another. It varies according to the circumstances and surroundings.

Mr. PADGETT. Yes; it is the general law.

The CHAIRMAN. In your opinion, Mr. Kane, is there any general rule that you can apply to ascertain whether or not a director is performing his duties properly—that is, can you lay down any rule that would make a man a good director by regulation?

Mr. KANE. I do not know as to that. Section 5147 provides that "each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated any of the provisions of this title." That is about all there is in the law on the subject of the duty of directors.

Mr. OVERSTREET. What duties do devolve upon him? That seems to recite that there is some former statute, or refer to some former statute.

Mr. KANE. There is nothing in the law more specific than that.

Mr. VREELAND. Have not the decisions of the courts pretty well defined that?

Mr. KANE. Yes; the Supreme Court has passed upon the question of the duties of directors.

Mr. WEEKS. In what way?

Mr. KANE. They have held, in general terms, that the duty of a director is not discharged by simply appointing an officer of good reputation and ability to manage the affairs of the bank, and then leaving the management of the bank entirely in his hands; that it is his duty to know, at least, upon what lines of security the larger loans are made.

The CHAIRMAN. Is it not the practice, in all the large banks of the country, for the directors to appoint officers or managers to whom the management of the bank is very largely left?

Mr. KANE. Oh, yes.

The CHAIRMAN. Can large banks be managed in any other way in modern times?

Mr. KANE. No. It is the duty or within the power of the directors to appoint the managing officers of the bank.

Mr. WEEKS. Is it not the practice, in large banks, to have an executive or finance committee?

Mr. KANE. Yes, sir.

Mr. WEEKS. To pass on loans which are later reported to the directors?

Mr. KANE. Yes; but that is not the case in the smaller banks of the large cities or throughout the country.

Mr. WEEKS. Do you think a director who votes to delegate his duties in that way to some other member of the board is doing his duty?

Mr. KANE. I do not know that I can express any opinion as to when a director is doing his duty or when he is not. The director himself knows better than anybody else does when he is doing his duty and when he is neglecting it.

Mr. WEEKS. That is the whole question, and that is what brought this matter up, as to what the duty of a director is. How is the examiner or the comptroller going to pass on the way in which the director shall perform his duty?

Mr. KANE. Of course that would vary with the different banks, in my judgment.

The CHAIRMAN. Is it not true, as a matter of fact, that the department knows in most of these cases of failed banks that loans have been improvidently made?

Senator HALE. Beforehand?

The CHAIRMAN. Beforehand; yes.

Senator HALE. Before the failure.

The CHAIRMAN. Before the failure?

Mr. KANE. In most cases; yes.

The CHAIRMAN. Take the recent cases in New York and elsewhere. It has been a matter of general repute, has it not, in official circles and in banking circles, that the ordinary rules of sound banking were being grossly violated?

Mr. KANE. Exactly; and things were going on that the comptroller was powerless to correct.

Mr. WEEKS. Have there been cases where the comptroller has directed the officers of a bank to reduce a loan, and where they have refused to do it?

Mr. KANE. Numbers of them.

Mr. WEEKS. There have been?

Mr. KANE. Yes, sir. They did not exactly refuse, but they neglected to do it.

Secretary CORTELYOU. Mr. Chairman, I think we shall have to be just a little careful how we carry that argument to its logical conclusion, because on that theory if the director gave no attention whatever to the bank it would not be the duty of the comptroller to pay any attention to him.

The CHAIRMAN. I certainly am not suggesting that—that a director should not pay attention to his duties. I hope I was not understood in that way.

Secretary CORTELYOU. That is the tendency of the argument.

Mr. OVERSTREET. I do not understand that either the comptroller or the Secretary is making any recommendation for any change relative to the duties of directors or to the duties of examiners as now prescribed.

Mr. KANE. Not in the recommendation submitted.

The CHAIRMAN. No; but, as I understand, certain recommendations are to be made.

Senator HALE. Yes; they will be before they get through.

The CHAIRMAN. We were discussing at the moment the duties of examiners and their salaries. This discussion went off on rather a collateral matter.

Mr. OVERSTREET. It was a little premature.

Mr. VREELAND. We requested, in the summer, that recommendations come from the department as to changes in administrative laws. Have you got them?

The CHAIRMAN. Mr. Kane is now proceeding to state the reasons why examiners should be paid salaries instead of fees, as is now done. He had just finished his statement. As I understand, the department are not yet ready to make a specific recommendation; but Senator Hale suggested that they should put their specific recommendations in that regard in the form of an act, or amendments to the present act.

Senator HALE. That feature is the only one that we have thus far taken up.

Secretary CORTELYOU. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Secretary CORTELYOU. Is it your desire that each subject, as we take it up, shall be fairly exhausted, or do you wish to bring up later matters that have come before the commission in response to circulars you have sent out or information we have collected? Do you want to exhaust each section as it is taken up?

The CHAIRMAN. My thought was that we should first hear the suggestions of the department—of yourself and the comptroller and Mr. Kane—as to changes that you thought were desirable in the law.

Secretary CORTELYOU. There are some related matters that have come up in connection with the appointment of examiners. For instance, the question as to whether they should be under the classified service or not. I did not know whether you wanted that matter discussed now or not.

The CHAIRMAN. Yes; I should be very glad to have that matter discussed. I think it is quite pertinent now.

Secretary CORTELYOU. I have very decided views on that subject, and I thought that while we were on the point we might perhaps take up that phase of it.

The CHAIRMAN. Yes, certainly; we would be very glad to have that phase of it discussed, and to hear you or anyone else.

Secretary CORTELYOU. I have very decided views on that subject; and I would rather wait for a few minutes and hear expressions of opinion from some of the others.

Senator HALE. That is pertinent to that feature of Mr. Kane's remark.

Secretary CORTELYOU. It seems to me very pertinent.

The CHAIRMAN. Would you like Mr. Kane or the comptroller to discuss that point?

Secretary CORTELYOU. I should like, Mr. Chairman, to hear from the comptroller on that point.

The CHAIRMAN. On the question of whether the examiners ought to be placed in the classified service? That is certainly pertinent to the matter that we now have under consideration.

Mr. MURRAY. Mr. Chairman, I asked the national banks, soon after I became comptroller, to give me an expression of opinion as to how the examinations were now made; to tell me in confidence whether they thought the work was well done by the present corps of examiners; and to make any suggestions which they thought ought to be made as to the improvement of the service. I had the results of that work tabulated and I brought it with me. I sent out several thousand short letters, of which the following is a copy:

“I am making an effort to improve the work of national-bank examiners, and in order to do so I want an expression of opinion from the banks as to how the work is now done, and as to how it may be improved. Will you please tell me how the examiners who have examined your bank actually do the work; whether or not, in your opinion, it is well done; and whether the examiners take time enough to go into the details of the bank as the law contemplates that they should; and, in a general way, point out every defect in the examinations that may occur to you. I will be under obligation to you if you will advise me how, in your opinion, the work, for which you pay, can be done so that both your bank and this office will get the best results possible from the examinations. The bank pays for these examinations, and it is, therefore, vitally interested in getting actual benefits from them. My sole purpose is to improve the entire service from the top to the bottom. Your reply, therefore, will be considered confidential. Please write me fully by return mail.”

I sent out 7,000 of those, and received 3,596 replies—about one-half. Eighteen hundred and forty-six of the banks, or about 50 per cent of those replying, thought that the present system is satisfactory; and the number that criticised the present system without suggesting any improvements at all were but 53. Sixteen hundred and ninety-five banks offered suggestions for improvement in one way or another—various suggestions, some of them pertinent and

some not very much to the point. Five hundred and one banks out of the 3,500 replying suggested a salary system in place of the fee system. Six hundred and eighty-four banks suggested more time for examination; and that was a very general complaint—the hurried way in which the examiners do their work. Some of the replies were rather amusing on that score. A great many of them said that the first question that an examiner asked was what time the next train left town. They would get in at 3 o'clock in the afternoon and begin an examination of the bank, and catch a 4 o'clock train.

The number suggesting the board meeting with the examiner was 278; and that, I may say, is a general complaint among the banks—that the examiners come in in a sort of a secretive way and go through the bank, examine its loans and discounts, and make a report without consulting the officers or the board of directors at all. They suggest that the examiner go over the paper piece by piece, all the loans, with the executive committee of the board or with the officers of the bank, and personally I think that is an excellent suggestion and one that ought to be put into effect at once, which it can be under the present law. The last three or four assessments that we have made on national banks to make good an impaired capital we have had to withdraw because our examiners were wrong in their estimate of the paper held by the bank, and the losses which they estimated as existing did not exist; and if they had consulted with the board of directors or the executive officers of the bank who knew about the value of the paper there would have been no impairment of the capital of the bank reported.

Senator HALE. Whom do they consult in the absence of consulting these officers that you mention?

Mr. MURRAY. They do not consult anyone, Senator.

Senator HALE. Whom do they consult except the cashier?

Mr. MURRAY. They could consult the discount clerk.

Senator HALE. But whom *do* they consult in their examinations? I do not ask you who they *could* consult.

Mr. MURRAY. Whom do they consult?

Senator HALE. They must consult with somebody.

Mr. MURRAY. No; they very often do not consult with anyone.

Senator HALE. They do not go into a bank and make an examination and see none of its officers, do they?

Mr. MURRAY. Very often. Very often they consult them. That is a difference in the methods of the examiners. Some go in and take the officers into their confidence and go over the paper with them, and others do not.

Senator HALE. What officers?

Mr. MURRAY. The president, the active vice-president, the cashier, the assistant cashier—any officer who knows about it.

Senator HALE. But there is no rule about it?

Mr. MURRAY. There is no rule about it. The general tendency is that examiners do not consult very much with the officers of a bank.

Mr. BONYNGE. What investigation do they make now to determine the value of paper they find in a bank? Do they go outside of the bank for information?

Mr. MURRAY. They try to do it very discreetly. Sometimes they carry on some correspondence on the outside. But I should like to take that question up in connection with my plan for dividing the country into districts. We have drawn up a regular schedule to handle that situation.

Mr. BONYNGE. Very well.

Mr. VREELAND. Have you got that plan here?

The CHAIRMAN. He is going to lay that before the committee later.

Mr. MURRAY. I have a plan laid out for that; and that matter of estimating the actual value of unlisted securities is one of the reasons why I have adopted that plan.

The CHAIRMAN. We have asked a number of representative bankers to come here and advise with us in regard to these questions. I was wondering how soon we would have that plan. If we are to talk with them about it, we must have it very soon.

Mr. MURRAY. I could give it to you this afternoon.

The CHAIRMAN. As I understand, after we get through with Mr. Kane, Mr. Murray is to submit to us his recommendations.

Senator HALE. Mr. Kane has a host of them.

Mr. MURRAY. I may say right now that the main difficulty with our examiners at present is that each one is going along independently and working along his own lines. He knows nothing of what any other examiner is doing. He does not know whether the paper which he finds in the banks in his district is found in the banks of other districts. He is just working along in a narrow groove, with no perspective at all except the banks which he examines. It seems to me that the bank examiners ought to all work together and each one of them have the benefit of the others' experience in the others' banks. Then they will have a broader basis for estimating the paper which they find and the securities which are held by the banks, and can give the comptroller's office very much better information on that subject.

Senator MONEY. Mr. Comptroller, who appoints these bank examiners?

Mr. MURRAY. The comptroller, with the approval of the Secretary of the Treasury.

Senator MONEY. What qualifications do you demand in a man who wants to be a bank examiner—that he shall have had some experience with bank work?

**Mr. MURRAY.** I have made a ruling since I have been comptroller that no one would be appointed a bank examiner while I was comptroller unless he was just as good a judge of credits and just as good an accountant and had just as fair a general scope of modern banking as the officers of the banks which he was to examine.

**Senator MONEY.** In other words, he must have had some previous acquaintance with banking work?

**Mr. MURRAY.** He must.

**Senator MONEY.** Do you require that?

**Mr. MURRAY.** I do.

**The CHAIRMAN.** You can not get that kind of man for \$2,000 a year, can you?

**Mr. MURRAY.** We have about 1,000 applications on file now, and every one of them, I think, or at least the great majority of them, would meet those qualifications.

**Senator MONEY.** What do you think of these stories we hear about bank examiners coming to a bank and saying, "Gentlemen, I am here to examine your bank. I never was inside of a bank before; I never had a bank account; I never worked in a bank, and do not know anything about it. Tell me what you want me to do?"

**Mr. MURRAY.** I have had letters to that effect; but that was ten years ago, before I was comptroller, and I do not know even the name of the examiner. I have had letters to that effect, and I have had them very much more disgraceful than that.

**Senator MONEY.** We heard of a case of that kind that happened about two weeks ago.

**Mr. MURRAY.** The only information that I have had is of one that happened about ten years ago, where a man went into a bank and said, "I don't know anything about a bank, and I would like to have you tell me what questions you would like to have me ask."

**Senator MONEY.** And then he went on to the next bank and asked the same questions? Is that it?

**The CHAIRMAN.** Do you think you can get a man for \$2,000 that is a good judge of credit and a good accountant?

**Mr. MURRAY.** You can get a very good man for \$2,000—a very good young bank man. There are very excellent young material in some of the banks, where there are splendid accountants, splendid bookkeepers, who will develop into good officers, who are getting \$1,200 and \$1,500 a year, and are very glad to become national-bank examiners. Only a few of our bank examiners get salaries as low as \$2,000. The salaries of the majority are higher than that. We try to make up a district in such a way that the gross receipts will be \$4,000 or \$5,000. In some of the States they divide the work into small districts and two men do the work alternately. Then the salaries run down.

The number of these replies suggesting a government auditor was 16, and the number of those suggesting retention of examiners in one locality was only 84. The number suggesting need for more competent examiners was 116.

Now we come down to the civil-service question. The number that suggested civil service for examiners out of 3,500 replies received was but 54.

The CHAIRMAN. You mean the people who answered that question in the affirmative?

Mr. MURRAY. Yes. The only banks that suggested civil-service examinations for the examiner out of the 3,500 replies received were 54.

Mr. OVERSTREET. What is your view about it?

Mr. MURRAY. I am a strong civil-service believer, Mr. Overstreet, but I doubt very much whether an examination could be given to candidates which would give any indication of their ability to pass intelligently and with tact on the nine billion of assets held by the national banks of this country. It is possible to do it, but I have turned it over in my mind and I can not see any practical way of doing it. An examiner must have some presence. He must have good judgment. He must have tact. A man who would commit the national banking act to memory and commit a synopsis of the decisions of the courts to memory, and practically pass par on every single question that could be devised, might be wholly unfit in natural instincts and training and temperament and tact and judgment and everything to go into a great bank and examine it. He might actually wreck it. It seems to me that of all places in the government service where the personal equation counts for a great deal it is in the service of bank examiners. It seems to me that the work that they do is as delicate and as important as any other class of work done by any government employee, if not more so, and on the information that I now have I should be strongly against it. Still, I have not gone into it as fully as I would like to.

Senator HALE. How many did you say out of 3,500 replying recommended it?

Mr. MURRAY. Fifty-four.

Mr. BONYNGE. The specific question was not put to them?

Mr. MURRAY. No; the specific question was not put to them. A general question was put to them to let me have any suggestions which they thought would better the service; and as this matter has been agitated for a number of years, I rather regard their replies as an expression of the general opinion on that question.

The CHAIRMAN. Mr. Secretary, do you want to say something on this question?

Secretary CORTELYOU. No; I simply indorse heartily what the comptroller says. He has stated my own view.

Senator TELLER. Do you know, in practical banking, of any bank that ever used the civil service in selecting its cashier?

Mr. MURRAY. I have never heard of its being done.

Senator TELLER. You do not believe that they ever do it, do you?

Mr. MURRAY. They do this, Senator; they shop about among the available men who apply and try to get all the information they can, but no civil-service test, that I ever hear of, is applied.

Senator TELLER. No. Those are things that they pick up because of the experience the candidate has had, and his general appearance and qualifications as presented to them, do they not?

Mr. MURRAY. Exactly.

Secretary CORTELYOU. It seems to me that this is just as the comptroller has said. I do not think any one would accuse me of not being a strong advocate of the civil-service system when it is confined within what we regard as its proper limits. But I have not yet been able to bring myself to believe that any examination will show these qualifications that are so vitally essential in a national-bank examiner—tact and discretion and good judgment, and the various other qualifications mentioned by the comptroller. When we were organizing the Department of Commerce and Labor, the question came up in a somewhat modified form in regard to appointments in the Bureau of Corporations, where the same strong qualifications of tact and good sense and broad mindedness were required.

As Mr. Murray, I think, will bear witness, the appointments originally made in that bureau were of a very high class, because our circle of selection was left very wide; and I think that gradually it has been brought to the point where they can be selected somewhat under civil-service requirements. But that was not possible in the organization of the bureau, and in a way the same considerations that were controlling with us then are particularly so in the matter of these bank examiners. I do not see how it is possible to devise an examination that will go much beyond the mere technical qualifications. Take a young high-school graduate, or a college man—he may be expert in figures, and may pass a fine examination; but beyond requiring three or four testimonials as to his general character you can not ascertain the details as to his personal integrity to the extent that you ought to have them, nor all these other matters that I have referred to.

Mr. WEEKS. Mr. Secretary, do you agree with the comptroller that good judges of credit can be obtained for \$2,000 or even \$5,000 a year?

Secretary CORTELYOU. I think we would part company at that point.

Senator HALE. I do not understand the comptroller to say that that is the case in large cities or great banks; but that in many cases, perhaps in the country, in sparsely settled communities and small banks, for \$2,000 net you can get a man who would make a good examiner.

Mr. MURRAY. That was my statement.

Secretary CORTELYOU. I did not understand the comptroller to mean that that applied to a large community.

Senator HALE. No; I did not, either.

Secretary CORTELYOU. I think that at a comparatively low salary you can get a man who will become familiar with credits in his section, the value of paper, and so on; but I think that we must pay these men good salaries in the larger places to get competent men.

The CHAIRMAN. Mr. Kane, we will go on now with your next suggestion, unless there are some other questions to be asked.

Mr. KANE. The next suggestion relates to section 5200. [Reading:]

“Section 5200, United States Revised Statutes, bills of exchange and commercial or business paper:

“This section excepts from the limit of loans the discount of bills of exchange drawn against actually existing values, and commercial paper actually owned by the person negotiating the same.

“The evident purpose of these exceptions was to facilitate trade by enabling the owner of such paper to realize on it at once, instead of tying his capital up until the maturity of the paper or the collection of the draft and remittance of the proceeds. But in facilitating trade by permitting the discount of such paper without restriction as to the aggregate in any one case, and in addition thereto allowing the same person or interest to become liable at the same time for money borrowed to an amount equal to the limit of a loan that a bank may lawfully make, the security of the depositor, whose funds are used in such transactions, is left entirely to the judgment and discretion of the officers of the bank.

“It is just as essential to the safety of a bank and the security of its creditors that the discount of commercial paper and bills of exchange be kept within prudent limits as it is to restrict the amount of a loan that may be made to any one person or interest. More bank failures have resulted from the excessive or imprudent concentration of funds in the hands of single or allied interests than from all other causes combined. It matters not, so far as the security of such funds is concerned, whether the liabilities consist of direct loans made in excess of the limit in violation of the statutory restriction or the discount of commercial paper beyond the limits of prudence and safety, but within statutory authority.

“Realizing the dangers of such a situation, administrative regulation has endeavored to supply a protection to the depositor, which the law does not afford him, by insisting that the aggregate liabilities of any person, or of any company, corporation, or firm, or allied interest, for discounted commercial paper or bills of exchange shall be kept within the limits of prudence and safety, but as there is no authority of law to support such regulation when disregarded, appeal can be made only to the conservative judgment of the directors of the bank as to the dangers attending such a policy.

"Unfortunately for the welfare of the bank, such admonitions are too frequently unheeded. Disaster finally overtakes the individual or enterprise, and the bank meets with losses which impair its capital or produce a condition of insolvency, and then only does the law vest in the Comptroller of the Currency the power to take decisive action.

"This section should be amended so as to place a limitation upon the aggregate liabilities of any person, company, corporation, or firm for money borrowed and for discounted commercial paper and bills of exchange. This limitation should be based upon a percentage of the total loans and discounts of the bank.

"This would cause a wider distribution of the loans and discounts of a bank, and tend to prevent such concentrations of funds as are frequently found, which endanger the solvency of the association.

"A specific penalty should also be provided for violation of this section, enforceable against the officers or directors responsible for such violation, in addition to the general penalty of forfeiture of the charter of the association now provided for any violation of the bank act. The individual and not the corporation should be punished in such cases."

Mr. BONYNGE. What penalty have you to suggest?

Mr. KANE. That is a matter for careful consideration.

Senator HALE. You propose to put that into the form of law?

Mr. KANE. Yes, sir.

Senator HALE. You have not drawn a statute to cover that?

Mr. KANE. No, sir.

Senator HALE. But you can do so?

Mr. KANE. There is no statute drawn covering any of these recommendations.

Senator HALE. But you can draw it?

Mr. KANE. Yes, sir.

Mr. VREELAND. Did you suggest the amount of limitation there?

Mr. KANE. No; I said that that would have to have very careful consideration.

Mr. OVERSTREET. Would not that necessarily be a very rigid law?

The CHAIRMAN. Do you think a regulation of that kind could be made to work equitably as between banks in different localities and under different conditions? It might be very important to restrict all loans and discounts to 10 per cent in some cases, and in other cases 10 per cent would be impracticable and impossible.

Mr. KANE. Yes, sir. But if you do not fix an arbitrary limit, then you would have to leave it to the discretion of the Comptroller to require reduction of such liabilities whenever he thought they were imprudent and give him some power to enforce that requirement.

Mr. OVERSTREET. That is what I wanted to bring out—whether you would not think it would really be more practicable to authorize a regulation than to fix a definite statute?

Mr. KANE. Yes, sir.

Mr. PADGETT. Mr. Comptroller, when we were abroad this summer we found in England, and also, I think, in France and Germany, that there is absolutely no regulation whatever of the banks with reference to their loans (no government inspection, no regulation whatever) except the common-law liability of contract between the bank as a person and the individual dealing with the bank, and there seemed to be no complaint there. How do you account for the difference between the banking there and here in that respect?

Mr. KANE. I am not able to answer that question.

Mr. PADGETT. That is a question that I have thought of considerably, that they have absolutely no regulation there, while here we are trying to get more regulation all the time.

Mr. WEEKS. Is it not a fact, Mr. Kane, that the paper on which you want to place a limit is paper that is made by some interest allied with the officers of the bank, and that that is the only paper?

Mr. KANE. In a good many cases, yes.

Mr. WEEKS. Is not that invariably the case?

Mr. KANE. Not invariably; no.

Mr. WEEKS. Have you ever known a failure of a bank to take place on account of its taking too much paper unless that paper (paper that would be included under the statute which you have referred to) is made by some interest allied with some officer or director of the bank? Do you know of a single case?

Mr. KANE. Oh, I think there are cases.

Mr. WEEKS. Do you recall them?

Mr. KANE. No; I do not recall any, but I think you could find a number of cases of that kind. But in most cases the officers or directors of the bank are interested in the borrowing concern.

Mr. WEEKS. It would be safe to say that that is the case 99 times out of a hundred; would it not?

Mr. KANE. Not to that extent. Here are a few illustrations of the character of loans which this recommendation is intended to meet. Here is a bank with a capital of \$25,000 and a surplus of \$15,000. It had a loan to one company of \$4,000, and had discounted the commercial paper of that same company for \$105,209, making the total liabilities of that company \$109,209. That was in the case of a small bank with a capital of \$25,000 and \$15,000 of surplus.

The CHAIRMAN. Possibly, but not probably, that might be legitimate banking?

Mr. OVERSTREET. It might be entirely safe.

The CHAIRMAN. We do not know all the circumstances, but the discounts might be entirely safe, and it might possibly be a proper thing to do from a banking standpoint.

Senator TELLER. It might be a very proper thing for the bank to do.

Mr. KANE. But if that lumber company were to fail, where would that bank be?

Senator KNOX. But is not the paper drawn against value?

Mr. KANE. It is presumed to be.

Senator KNOX. Does not the law require it to be?

Mr. KANE. In the case of all commercial paper it requires it to be; but in a great many cases you will find that so-called commercial paper represents nothing but a loan.

The CHAIRMAN. If the discounts were fraudulently made, and if the paper was commercial paper only in name, the comptroller clearly should interfere.

Senator KNOX. The act is very specific, and can not be evaded without fraud. The act says that the only exception shall be as follows:

"The discount of bills of exchange drawn in good faith against actually existing values and the discount of commercial or business paper actually owned by the persons negotiating the same shall not be considered as money borrowed."

Of course, those two terms have specific meanings. We know what paper drawn against value is, and we know what legitimate commercial paper is; and if that instance that he states there, of discounting \$105,000 for a lumber company, had not been discounts of commercial paper or paper drawn against value, it was a fraud under this statute.

The CHAIRMAN. Suppose the case of a furniture manufacturing company, for instance, selling furniture from Maine to Texas, and taking trade paper from customers. In such a case no rigid restrictions by percentages should be imposed.

Mr. WEEKS. What were the deposits of that bank?

Mr. KANE. I have not that information here.

Mr. WEEKS. I think it is fair to say that that man was loaning too much money on one class of paper.

Mr. KANE. It is too large a liability to be dependent upon one concern in a bank of that size.

Senator MONEY. Mr. Kane, may I ask you this question? What do you think of the proposition of permitting no officer of a bank to borrow money from his own bank?

Mr. KANE. I think that in some cases it ought to be permitted, under proper restrictions; but I think all such loans should be passed upon and approved by the board of directors.

Senator MONEY. Suppose that there was such a law—that no officer of a bank should be allowed to borrow money from his own bank. If he is a man of credit he can go to any other bank and borrow the money without any difficulty. Do you not think that it would be very much safer for the banks generally to put that in the law?

Mr. KANE. No; in a great many cases it would be a hardship. Why should his own bank be deprived of that business? Why should he be compelled to take the loan to some other bank?

Senator MONEY. Just to prevent the president or the cashier or somebody from plundering the bank, as is generally the case.

Mr. KANE. If you required such loans to be passed upon by the board of directors, and to have their approval, you would correct a condition of that kind.

Senator MONEY. Is not the approval of the board of directors in a great many instances a purely informal thing that is really hardly ever adhered to? As a matter of fact, do not these banks generally fail because one or two officers have absorbed their deposits in loans? Is it not generally the case that the directors have done so?

Mr. KANE. They pass informally upon them—certainly.

Senator MONEY. It is purely informal, you know.

Mr. KANE. But you could amend the law so as to require such loans to have the approval of a majority of the board of directors, or something to that effect.

The CHAIRMAN. I did not mean, by my question, to assume that that was generally a proper thing to do; but I can conceive of cases where that transaction would represent a proper and legitimate banking transaction, in which there would be no danger to the bank.

Mr. BONYNGE. Mr. Comptroller, if they have evaded the existing statute by discounting that kind of paper, which represented no value, the placing of a limit would not insure the bank against the evasion of the limit any more than it does against the evasion of this statutory regulation, would it?

Mr. KANE. No; but I do not say that there is any evasion in the case referred to. It is only the amount of that liability in the case of a bank of that size that is questioned. It seems to me that there should be some restriction as to the amount of commercial paper that could be discounted for any one interest.

The CHAIRMAN. Suppose that a man is borrowing 10 per cent of the capital of a bank, and that he also appears as an indorser in connection with other discounts; would you make the same rule apply to such cases also?

Mr. KANE. I would restrict the amount of his total liabilities, direct and indirect.

Senator HALE. That is, would you reckon indorsements in making up the limit?

The CHAIRMAN. Yes; in regular commercial transactions? Everything really depends upon the character of the transaction.

Mr. BURGESS. Would not all of that be covered by proper examination by competent men?

The CHAIRMAN. I think so.

Mr. BURGESS. And be purely a business question?

Mr. KANE. Yes. But the trouble comes in being unable to force a reduction of those liabilities where we find that they are beyond the limits of prudence or safety.

Senator KNOX. If they are beyond the limit of the law, you have ample remedy; and I do not think you are the judges as to what is prudent and safe as long as a bank is operating within the law. I do not find anything that you can put your finger on in the statute that gives you any such function.

Mr. KANE. When a bank fails under such conditions we are given credit for failure to exercise judgment.

Senator KNOX. I have never known a case where a national bank failed where it had not been thoroughly examined by the national-bank examiner at frequent intervals. That is no prevention of failure.

Mr. KANE. Whenever a national bank fails and any such conditions are disclosed the comptroller is criticised for having permitted such a condition to go on, knowing that these concerns owed the bank so much money.

Senator KNOX. It seems to me that the comptroller's answer to that is that the responsibility is not placed on him by law to pass upon the credits of a bank.

Mr. KANE. That is true, but—

Senator KNOX. I am seeking for information. If there is such a provision of law, I should like to know it. I have never been able to find it.

Mr. KANE. There is no such provision of law; but you can not convince the general public that the comptroller is not to blame for permitting such a condition to exist.

Senator KNOX. Of course, the comptroller simply takes what every public servant takes—blame for things he is not responsible for.

Mr. KANE. And those who ought to know better take the same view. Financial journals, and the public press, generally jump on the comptroller's office under such conditions.

Mr. WEEKS. Has more than one report shown that condition in that particular bank? Is that condition going on month after month and year after year?

Mr. KANE. In this particular bank?

Mr. WEEKS. In that particular bank.

Mr. KANE. No doubt this same loan will run for a long time.

The CHAIRMAN. And you can not say what the deposits of the bank are?

Mr. KANE. No, sir; not now.

Mr. MURRAY. I should like to say that that is not the worst case that has come under my eyes. There are many worse than that.

Mr. KANE. Yes; very much more so. I know of a case in which a letter of criticism went across my desk within a week, where all the capital and all the surplus and all the deposits but a few dollars were loaned to the president of the bank.

Senator TELLER. The president of the bank?

Mr. KANE. The president and his allied interests.

Mr. VREELAND. But this is not that kind of a case at all. This is simply a case of a very large loan on a small capital.

Mr. MURRAY. No; this is a case of discounting actual commercial paper; but even that case violates the first principle of banking, in that it concentrates all of its loans practically in one interest, instead of distributing the loans. That is the principal idea of all safe banking, at least, and an idea that most bankers carry out—to distribute their loans fairly, and not concentrate them in one interest.

Mr. PADGETT. The question is, back of that: Is it the province of the Government to regulate that discretion?

Mr. KANE. It is the province of the Government to protect the interests of the depositors and the minority stockholders as well.

The CHAIRMAN. You have some other cases, Mr. Kane?

Mr. KANE. Yes; here is a bank that has a capital of \$150,000 and a surplus of \$100,000; the president of the bank and some of the directors are interested in a company which has loans amounting to \$303,563, and some subsidiary companies, in which some of the directors are interested, have loans amounting to \$186,826, making a total of \$490,435 of liabilities that the directors and the concerns in which they are interested owe this bank.

The CHAIRMAN. What have you said to that bank?

Mr. KANE. We have criticised the excessive line of liability.

The CHAIRMAN. Did you ascertain whether they were loaned according to the terms of the law?

Mr. KANE. They were not reported as excessive loans. If there were any excessive loans made in violation of the statute, of course, we have power to compel them to reduce those.

The CHAIRMAN. Do you try to ascertain whether they are loans made against values—on real commercial paper?

Mr. KANE. They are presumed to have been made against values.

The CHAIRMAN. Presumed how? By the fact that they were made, or presumed by the examination?

Mr. KANE. No; the examiner satisfies himself on that score—that this paper is presumed to be genuine commercial paper, given in payment for some commodity bought and sold.

Mr. OVERSTREET. That is simply the loans. You have not said anything about the discounts. That is the discounts and loans both that you have there.

Mr. KANE. Discounts and loans both, in this case.

Senator HALE. Do you suppose that examination would have disclosed that the large part of the business of this bank in amount was concentrated in this one paper?

Mr. KANE. Yes, sir.

Senator HALE. That is, it would show, even if under the letter of the law they were loaning on what would be called "commercial paper," that it was a bank which was not distributing its business and having many depositors and many discounts and many persons interested, but that most of its business was concentrated for one concern, practically? It would show that, would it not?

Mr. KANE. It shows that; it shows that too much is loaned to one interest.

Senator HALE. And you do not think that is intended to be the purpose for which banks are chartered and managed under the Government?

Mr. KANE. I do not think it is a very safe condition.

Senator HALE. I do not think so. I think it is a very unsafe condition.

Mr. KANE. Yes, sir.

Senator HALE. And I am not content with the fact that they conform technically to the law. I think there ought to be some law that prevents such a performance as that.

Mr. KANE. That is the idea of the recommendation.

Senator MONEY. There is no limit to the deposits in that sort of a bank, is there?

Mr. KANE. No; there is no limit to the deposits in any bank.

Senator MONEY. They take all they can get from anybody.

Mr. MURRAY. The Senator said he would like to have a statement of the deposits.

Senator HALE. I meant the amount of deposits showing the resources of the bank.

The CHAIRMAN. It is conceivable, of course, in a case like this, that a large concern (manufacturing or otherwise) in a small town, doing practically all the business of the whole community, should undertake to do their legitimate financing through one bank. They could easily do it through a state bank, I presume.

Mr. OVERSTREET. It is very common to do that.

The CHAIRMAN. And the business may be an entirely legitimate one. Of course this case appears very bad upon its face, and it may be—quite likely is—as bad as it seems.

Senator HALE. It is dangerous.

The CHAIRMAN. I do not mean to say that under ordinary circumstances it is a good thing to do.

Senator HALE. No; the old, homely proposition not to "put all your eggs into one basket" is good, and it ought to apply to banks as well as to other things.

The CHAIRMAN. Within my recollection, in New England, and I imagine all over the country, banks were formed largely for the purpose of doing that very thing. A great many banks existed largely for the purpose of furnishing facilities and perhaps capital to the men who owned the bank and were practically its only customers and the only people interested in its solvency. This was quite common in the early days, but I supposed there were very few cases in existence now.

Mr. PADGETT. That sort of banking was disastrous, too.

The CHAIRMAN. Oh, yes; I was simply stating the fact.

Mr. WEEKS. I would like to have the department furnish the commission with a list of the failures that have occurred in the last ten years due to excessive loans where the loans have not been in some way allied with the officers or directors of the bank.

Mr. VREELAND. Why not give us the information as to why they did fail, if you are going to look it up?

Mr. WEEKS. Just why the banks did fail, then. What I want to get at is whether it is due to excessive loans.

The CHAIRMAN. Of course, there is a class of failures, like those in New York recently, where there is a manifest fraudulent purpose from the beginning.

Mr. WEEKS. The comptroller's office knew all about that months and months before.

Mr. PADGETT. Yes; I think they did.

Mr. WEEKS. Everybody else did.

The CHAIRMAN. I assume that they did.

Senator KNOX. I wonder if they did?

Mr. WEEKS. Everybody else did. I do not know whether the comptroller's office did or not.

The CHAIRMAN. I think the correspondence of the department would show they did, if we had it.

Senator TELLER. In the case of the Walsh failure in Chicago, I do not think that anything showed that there was any intention in the beginning to wreck the banks. I think perhaps in the Morse business there might have been the intention to wreck the bank before he got through. But there are lots of cases where the officer of the bank uses his influence to borrow from the bank; and as far as I have ever known, those are the cases where the trouble comes.

The CHAIRMAN. There was no legitimate paper in that case, I take it—no real commercial paper. It was what might be called accommodation paper, or paper in fraud of the law.

Senator TELLER. Yes; but I presume that he intended to protect it.

The CHAIRMAN. Go on, Mr. Kane. Have you some other cases?

Mr. KANE. Here is a bank with a capital of \$500,000 and a surplus of \$130,000; and the total loans, direct and indirect, to directors and concerns in which they are interested, amount to \$897,000.

Mr. WEEKS. What are the deposits, Mr. Kane?

Mr. KANE. I have not got the deposits.

The CHAIRMAN. I think it is very important for us to know the business of these banks, and how large a part of the entire business is represented by these loans.

Mr. OVERSTREET. Whether or not these directors and officers have all of their business concentrated in this one man that has made the loan?

The CHAIRMAN. Certainly.

Mr. WEEKS. But those officers and directors might have \$1,000,000 of deposits in those banks. We have got to have all the facts in order to know anything about that.

Senator HALE. We ought to know the resources of the bank.

Mr. KANE. Certainly.

Senator HALE. The full resources.

Mr. KANE. That information is not given on this sheet.

The CHAIRMAN. I wish you would furnish it, as it is important for us to know, I think.

Mr. KANE. It can be furnished.

Mr. OVERSTREET. He might complete that statement.

The CHAIRMAN. Yes; complete that.

Mr. OVERSTREET. And file the other information later.

Mr. KANE. Those are only a few illustrations of how these loans run. That will give you an idea of some of them.

The CHAIRMAN. Has any State any laws that would prevent banking of this kind, as far as you know?

Mr. KANE. I am not able to say as to that.

Mr. BURTON. That is, a limit on the percentage—a limit on the amount that may be loaned to any individual or concern?

The CHAIRMAN. No; as to the amount of paper discounted.

Mr. BURTON. I am pretty sure there are such limitations. I think our own state law has such a limitation.

Mr. KANE. I think the state officials are given greater latitude in a great many cases than the comptroller as to when they can close up a bank and enforce their regulations.

Senator HALE. The State regulates the loans of savings banks. I do not know about state banks.

Mr. VREELAND. Has Mr. Kane anything else?

The CHAIRMAN. Yes; he has some other things to say.

Mr. KANE. The next is section 5205, relating to the impairment of the capital of banks. [Reading:]

“Section 5205, United States Revised Statutes, impairment of capital:

“If a bank’s capital becomes impaired wholly or in part by losses, this section requires such impairment to be made good by a stock assessment within three months from the receipt by the directors of notice from the Comptroller of the Currency, or the alternative of placing the association in liquidation. Inability or refusal to do either within the prescribed time subjects the bank to a receivership.

“There is an inconsistency between this provision of law and section 4 of the act of June 30, 1876. While the former requires the capital to be made good within three months in order to escape a receivership, the latter requires the stock of any shareholder who fails to pay his proportion of the assessment within that time to be advertised for a further period of thirty days after the expiration of the three months before it can be sold by the directors to make good the deficiency. The directors can not, therefore, enforce payment of the assessment on delinquent stock under four months from the date of receipt of the notice of impairment.

“These provisions of law are also frequently responsible for the unsatisfactory conditions which are found to exist in banks, which the comptroller is powerless to correct. Pending the collection of an assessment to make good an impairment of capital, the association remains in the hands of the same management responsible, in many instances, for the losses, either through incompetency, speculation, or otherwise. Depositors continue to put their money in the bank to be loaned or invested and perhaps lost or imperiled in a like manner.

“There have been a number of instances in the past, and there no doubt will be others in the future, when it would have been and will be for the best interests of all concerned to temporarily close the doors of an association whose capital becomes badly impaired, instead of requiring innocent stockholders to risk additional capital in the hands of an incompetent or speculative management and further imperil the funds of confiding and unsuspecting depositors.

“Under existing law the comptroller has no authority to exercise his judgment and discretion in such cases. Where he has reason to believe that an assessment can not be collected from stockholders to make good an impairment of capital, or where he has no confidence in the ability of the board of directors to restore the bank to a satisfactory condition, he should have discretionary authority to close an association under such conditions pending the reorganization or rehabilitation of its affairs. Such an amendment is recommended.”

Mr. MURRAY. I should like to say, Mr. Chairman, that I do not approve of that, and would like to state my reasons for it when the time comes.

Mr. BONYNGE. Why not be heard now, Mr. Comptroller?

Mr. MURRAY. I should be very glad to. On the point of an impairment of capital, I think that a period of three months for letting it

run along, and then a month additional in which to advertise the stock, is altogether too long. I think a bank that has an impaired capital ought to be made to make it good at once. In other words, I think that security ought to be behind the depositors of a bank. It is a rather disgraceful condition of affairs now, and has always been since the National Bank Act was passed forty-five years ago, to allow a bank to run along with an impaired capital and still continue to take people's money. Just as soon as there is an impairment definitely determined, the comptroller should say that within a very few days, a week or ten days, or two weeks (if the people can raise the money they can raise it at once) they should make that impairment good.

The question of temporarily closing the doors is entirely impracticable, and would ruin every bank that was temporarily closed. The hardest thing in the world for a bank to get over is the fact that it has even been in distress, let alone closing it temporarily; and I should entirely dissent from that. The thing to do, in my opinion, is to tell the stockholders of a bank to make good that impairment forthwith, and that failure to do so would be regarded by the comptroller as an act of insolvency, and the bank would be wound up.

**Senator KNOX.** We have a scheme in Pennsylvania that prevents all that sort of nonsense. We make the directors personally responsible for any deposits received after the capital has been impaired, which makes them pretty alert.

**Mr. MURRAY.** I think that is very good. But the Government lets a bank run along simply as a trap, very often, for people; and the Government is severely criticised, and justly so, for allowing a bank to continue to do business for four months when its capital is sometimes entirely wiped out. We have had occasions where a 100 per cent assessment has been necessary. The capital has been entirely gone; and still, under the law, they can continue to do business for four months, and then, probably, after taking in a lot of new business, getting new depositors, and probably increasing their liability in their deposit line, they close. It is nothing else than a scandal. A bank, with an impaired capital, ought not to be allowed to do business.

**Mr. WEEKS.** Do you not think that you would have to put in some definite limit, like thirty days, instead of saying "forthwith"? Do you think it would be any hardship if that time were limited to thirty days?

**Mr. MURRAY.** I think that is too long. I do not see why a bank should go along in an unsafe condition and advertise that it has \$100,000 of capital when it has not a dollar, and a 100 per cent additional liability of the stockholders (which would make \$200,000 of security for the depositors—\$100,000 of capital and \$100,000 of stockholders' liability) when the stockholders can not respond to that assessment.

Mr. WEEKS. Frequently the stockholders are widely scattered, and it takes time to get notices to them.

Mr. MURRAY. Yes; but never more than a week, or three or four days.

Mr. BONYNGE. But the bank officials would know of the impairment of the capital long before you called it to their attention, and they could provide against it even without waiting for thirty days. Is not that true?

Mr. MURRAY. That is the very last thing the officers of a bank will admit—an impairment of capital. Half of the comptroller's time is taken up with listening to arguments against the report of the examiner that the capital is impaired. They always hold that the assets which they have are worth 100 cents on the dollar, and will not admit that they are not when it is absolutely apparent to everybody else. I believe the impairment of capital ought to be promptly made good; and the rest of the argument here as to temporarily closing the doors, and so forth, I entirely disagree with.

Mr. WEEKS. Suppose the directors were required to furnish a bond within a reasonable time that the capital would be made good?

Mr. MURRAY. If the directors are financially responsible, and if such a bond could be drawn, that would hold them.

Mr. WEEKS. A bond could be furnished by a surety company that would not require any responsibility on the part of the directors.

Mr. MURRAY. The question of a bond is not very satisfactory. My experience in the department with bonds is that every defense that can possibly be interposed is always interposed to a bond; and I do not think that is the kind of security the depositors ought to have. They ought to have the capital and \$100,000 additional liability at all times behind the deposits.

Mr. WEEKS. I mean temporarily, of course; not permanently.

Mr. MURRAY. That would be a very great improvement on the present condition, when there is nothing—no security at all.

Mr. WEEKS. I supposed the Government was encouraging surety companies all the time.

Mr. PADGETT. Would the personal liability of the directors for deposits received be a good remedy?

Mr. MURRAY. Suppose the personal liability of the directors does not amount to anything?

Mr. PADGETT. I know; but on the general proposition the directors of the bank are responsible.

Mr. MURRAY. It is not the general proposition; it is less than 50 per cent. The Government has levied an assessment of about \$44,000,000 since the national banking system went into effect, but it has only collected \$20,000,000, or about 45 per cent.

Mr. PADGETT. Yes; but that is on the stockholders.

Mr. MURRAY. Stockholders, of whom the directors are part. The proportion is about the same.

Mr. PADGETT. In our State it is a felony for a State bank to receive deposits when the officers know that the bank is insolvent.

Mr. BURTON. To what extent do you think the management of the banks would be hindered by deterring men from acting as directors in case the rule should be made more severe as to their liabilities? Have you considered that question? Where do you draw the line on it?

Mr. MURRAY. I think the people who would drop out would be one-thousandth of 1 per cent of the present directors.

Mr. BURTON. That is, even if they were much more severe?

Mr. MURRAY. If they were made very much more strict than they are.

Mr. BURTON. You think you would still get a good class of directors?

Mr. MURRAY. The very highest; and the people that we would lose would be no disadvantage to the institutions that they would drop off from.

Mr. WEEKS. Have you ever been a director, Mr. Comptroller?

Mr. MURRAY. No, sir.

Senator KNOX. Do you believe that you could get anyone who was responsible to act as a director of a national bank if the law required every director to know that every name signed to every obligation that the bank held was the genuine signature of the person it purported to be?

Mr. MURRAY. I do not think you could find that kind of a man in the United States, or in the world, Senator; and it was to establish that fact officially that I asked the question in my list of questions.

Senator KNOX. I thought not.

Senator HALE. I want, if I can, to get at the extent of this evil of the impairment of the capital of banks. In the course of a year—in twelve months—how many cases have come to your knowledge of serious impairment of the capital of a bank out of this number of say some 7,000 banks? Is that the number?

Mr. MURRAY. Yes, sir.

Senator HALE. How many cases of this kind have come to you? I mean in all the cases of an impairment of the capital. Is the percentage large?

Mr. MURRAY. I should say, on the whole, that the percentage was rather small.

Senator HALE. About how many in a year?

Mr. MURRAY. I will make the estimate since the 1st of September. I have in mind a maximum of 10 cases of impairment.

Senator HALE. Since last September?

Mr. MURRAY. By rule of thumb, I should say about 10.

Senator HALE. In three months?

Mr. MURRAY. In three months; but that is less—how many assessments have you levied?

Mr. KANE. That is where you levy assessments; but there are a number of cases—

Mr. MURRAY. There are a number of cases where we do not levy an assessment and they promptly make it good.

Senator HALE. What I meant to include was all the cases that come to you where this mischief of the impairment exists.

Mr. MURRAY. Mr. Fowler, you used to make out those certificates. Would you say 10 per cent of the banks was too much?

Mr. W. J. FOWLER. I think so.

Mr. MURRAY. I think so, too. Would say 5 per cent was too high?

Mr. FOWLER. That is high.

Mr. MURRAY. It would run about 200, I think.

Senator HALE. In a year?

Mr. MURRAY. Yes; which would be between 3 and 4 per cent.

Senator HALE. About 3 or 4 per cent—3 per cent?

Mr. MURRAY. Three per cent.

Mr. WEEKS. Mr. Chairman, I notice that the comptroller dissented from certain views which Mr. Kane read. Are those Mr. Kane's views, or are they the expression of the Treasury Department's opinion, or the comptroller's department, or what?

Mr. KANE. During Mr. Murray's absence last summer the Secretary requested me to prepare for submission to this commission such amendments as experience had shown to be necessary in the administration of the banking laws; and these recommendations were prepared by me after consultation on some of these subjects with some of the other officers of the bureau.

Mr. BURTON. I take it that you consider that when the capital is impaired it is a more serious thing; that the bank is in danger, and there should be a closing of the institution until you can find the lost capital?

Mr. KANE. I simply suggest that the comptroller be given discretionary powers in that connection; that where he has no confidence in the ability of the board of directors or the management of that bank to put it into shape, he ought not to be required to wait until the time expires under the law, but ought to be allowed to close that bank. It will be closed under such conditions anyhow; and why not close it at once as well as to wait thirty days or three months, and save those people from putting additional money in that bank, stockholders as well as depositors?

Mr. BURTON. That is an authority that you, of course, believe in exercising only in very extreme cases?

Mr. KANE. Yes; a discretionary authority, for use in extreme cases. We have had cases of that kind where I felt confident that the bank's capital would not be restored, and after the three months expired the examiner returned to the bank and found that the bank's capital had not only not been restored, but that the bank was in a worse condition than it was when they received the notice that it was impaired. Then we closed it up. What is the use of letting a bank like that run along for three months, until that condition is reached?

Mr. MURRAY. There is where I disagree with Mr. Kane. I do not think that discretion ought to be lodged in the comptroller. I think he ought to make demand on the bank to make good the capital, and failing in that in a reasonable time, he ought to close it. I think it is a dangerous discretion, and giving that discretion would bring untold criticism on the head of the comptroller, who would be charged in every case with closing a solvent bank. He is generally charged now with closing a solvent bank when it is notoriously insolvent, and it is a discretion that I should very much dislike to see in the law. The thing to do, in my opinion, is to make the capital good at once, or, failing in that, to close it.

The CHAIRMAN. Mr. Kane, you may go on with your next recommendation.

Mr KANE (reading):

"Liabilities of officers and directors:

"Another fruitful source of danger to banks, frequently resulting in unsatisfactory conditions, large losses, and insolvency, is the too free use of the funds of the association by its executive officers and directors.

"The law should be amended to prohibit the active officers and employees of a bank from borrowing its funds in any manner except upon application to and approval in writing by the board of directors.

"The direct and indirect liabilities of a director who is not an executive officer of the bank should be restricted to a fixed percentage of the paid-in capital of the association, and all such liabilities should be required to have the approval in writing of a majority of the board of directors, duly recorded before such liabilities are incurred.

"A specific penalty should be provided for violations of this provision, enforceable against the individual officers or directors offending.

"It is not uncommon to find in the reports of condition and of examiners limit loans made to officers and directors of banks, and at the same time liabilities as indorsers for amounts equal to or in excess of the capital stock of the bank. Frequently the indirect liabilities are simply accommodation notes indorsed by the officers or directors and made for their benefit, or the notes of some concern in which they are interested."

That goes back to the question that we discussed before, of fixing a limit on discounted paper—commercial paper.

Mr. BURTON. A bank would have full authority to provide by-laws now, would it not, under which regulations could be made for directors passing upon the loans?

Mr. KANE. Yes, sir.

Mr. BURTON. Do you know of any banks having such by-laws?

Mr. KANE. There are some banks that have some such by-laws, and pass upon the loans in that way; but I think they are the exception to the rule. [Reading:]

“Section 5139, United States Revised Statutes, ownership of shares of capital stock, and joint occupancy of the same quarters by two banking institutions:

“The Supreme Court of the United States has held that it is unlawful for a national bank to purchase or invest in the shares of stock of other corporations. While it is believed that the national-bank act does not contemplate that the stock of national associations should be owned by other corporations, the laws of some of the States authorize such ownership. In a number of cases the entire capital stock of a national bank is owned by another banking institution incorporated under state authority, except the five or ten shares (as the case may be) required by the national law to be owned by each director. These shares, too, are practically owned by the same corporation, as the directors of the bank are usually officers or directors of the other institution, which generally occupies communicating or adjoining quarters in the same building with the national bank.

“Where two concerns closely allied in this respect fail, and the stock of the national bank is largely or wholly owned by the other corporation, the liability which attaches to such stock as an asset for the benefit of the creditors is largely impaired, if not wholly nullified.

“The operation of another banking institution in the same building with a national association is very objectionable. Where this close relationship exists, the national bank is exposed to danger whenever there is any lack of confidence in the other institution, and vice versa; and a satisfactory examination of either institution can not be made without a simultaneous examination of both. This is sometimes difficult to bring about, but is effected whenever possible. In several instances of failure of national banks which occupied this close relation with another banking institution, gross irregularities and criminal violations of law have been discovered which could only have been detected by a simultaneous examination of both institutions.

“This section should be amended so as to prohibit the stock of national banks from being owned by corporations, except such as may be taken in satisfaction of debts due the corporation. While such a law could be circumvented by the directors holding the stock in their individual names, if they were financially responsible they could be held individually liable for the stock assessment. They can not be so held when the stock is owned by their corporation.

“It should also be amended so as to prohibit any national association from occupying the same building or communicating buildings

or quarters with any other banking institution. The State of Massachusetts has passed a law prohibiting such joint occupancy by savings banks."

Mr. WEEKS. You do not object to putting national banks in the same building, do you?

Mr. KANE. There would not be so much objection to that, because the examiner would have control of both those institutions; but it is better to have them separated.

Mr. BONYNGE. How do you enforce such a regulation as that? If a national bank has rented its quarters, for instance, in a building, and some other institution comes along and rents adjoining quarters, what is the national bank going to do—move out?

Mr. PADGETT. He says "communicating."

Mr. KANE. Communicating—in the same office or communicating offices.

The CHAIRMAN. Would you establish a limit of 100 feet, as they do in cases of saloons?

Mr. KANE. In Massachusetts the law prohibits two banks from being in the same building; does it not, Mr. Weeks?

Mr. WEEKS. It prohibits a savings bank from being in the same building with a state bank or trust company; does it not, Mr. Beal?

Senator HALE. I think that is right.

Senator KNOX. Would your suggestion cover a case of this kind: If a trust company wanted to make an investment for an estate in the stock of a good national bank, would your suggestion here prevent that?

Mr. KANE. Where the ownership of the stock would be in the estate?

Senator KNOX. No; it would be in the trust company.

Mr. KANE. Yes; it would cover all cases of that kind. Here is an illustration of how some of the stock of national banks is held: Here is a trust company which owns 200 shares out of 250. Here is another trust company which owns 170 shares out of 250. Another one owns 2,900 shares out of 3,000; another one, 272 shares out of 500; another one, 2,900 shares out of 3,000; another one, 9,830 shares out of 10,000. Others are as follows: Four hundred and eight shares out of 500; 255 shares out of 500; 1,430 shares out of 1,500; 840 shares out of 1,000; 300 shares out of 1,000; 1,000 shares out of 7,000.

The CHAIRMAN. Have there been losses on account of the stock ownership in these cases?

Mr. KANE. There have been some very bad failures and losses in cases of this kind.

The CHAIRMAN. On account of corporate ownership of stock?

Mr. KANE. Yes—corporate ownership and close relations.

The CHAIRMAN. Yes; but your amendment suggests a different proposition.

Mr. KANE. Wherever you find this condition, you find that the officers of the trust company or other bank are also officers and directors of the national bank, so that the two are under practically the same management.

Senator HALE. What is your knowledge about the purpose in these cases of getting control and ownership by a corporation of shares in national banks? Is it ordinarily done for investment or for the purpose of controlling and exploiting the bank itself? What do you think is generally the purpose?

Mr. KANE. It is done for the purpose of controlling the operation of the institution.

Senator HALE. Not as an investment?

Mr. KANE. Not as an investment, I should think not.

The CHAIRMAN. I know of two or three cases of that kind personally, where large trust companies have bought stocks in national banks for the purpose of controlling the banks, but for an entirely legitimate and proper purpose. They prefer to have a national bank as an adjunct of their business, a part of their general organization.

Mr. WEEKS. The laws of Massachusetts permit savings banks to invest in national-bank stocks; and they have done so to a considerable extent.

The CHAIRMAN. They do in our State, too. Savings banks in my State are large owners, for investment, of the stocks of national banks, and trust companies are also; and those trust companies and savings banks are certainly responsible stockholders.

Senator HALE. Oh, they can do that.

The CHAIRMAN. There is no question about their liability.

Senator HALE. They do it with us, but they do it as an investment. Generally, I think, the savings banks do it entirely as an investment.

Mr. PADGETT. Do you know, Mr. Kane, of any instances where there has been a failure of a bank, and its stock was owned by a trust company, where the trust company was not responsible for the stock?

The CHAIRMAN. You mean liable on the stock?

Mr. KANE. Yes; in some cases where the corporation is prohibited or not authorized to own the stock, it is not liable for the assessment on it.

Mr. WEEKS. Do you mean not able to pay it?

Mr. KANE. Not liable for it, even if they were able to pay it.

The CHAIRMAN. That would be clear, of course; if they did not have any title they could not be assessed; but if they had title, it does not seem to me that there could be any question about it. You do not know of any losses resulting to depositors on account of that, do you?

Mr. KANE. We know of losses to the extent of the stock liability that we were not able to collect from those corporations.

The CHAIRMAN. Trust companies?

Mr. KANE. Yes, sir.

Mr. PADGETT. Of trust companies or savings banks?

Senator TELLER. That was because the trust company had not a right to buy the stock?

Mr. KANE. No; because the trust company was insolvent at the same time that the bank was.

The CHAIRMAN. That might have been the case in Chicago, in the Walsh case.

Mr. KANE. No; the one I have in mind was not the Chicago case. It was a New Jersey case.

Mr. PADGETT. To what extent has that been so? Is it simply an isolated case, or is it enough to attract attention?

Mr. KANE. Oh, no; there are other cases of the same kind. I do not know that there are a great many of them.

The CHAIRMAN. Would you suggest forbidding all corporations owning national-bank stock?

Mr. KANE. The national banks are prohibited from owning the stock of other corporations, and I would prohibit other banking corporations from owning stock in national banks.

The CHAIRMAN. Only banking corporations?

Mr. KANE. Only banking corporations.

The CHAIRMAN. You would not apply that to industrial corporations?

Mr. KANE. No, sir.

Mr. MURRAY. Mr. Chairman, I should like to dissent from that. I do not think that discrimination against the ownership of bank stock should be incorporated into law. The only thing that I do think we ought to see to is that the person owning the stock is legally responsible for the assessment. A corporation which is not legally liable for the assessment on the stock of a bank if it fails ought not to be allowed to be a stockholder; because the bank advertises 100 per cent additional security of its shareholders, and the Government says that shareholders shall be responsible for that. If it allows the stock of national banks to be owned by some one that can not legally respond or can not legally be held for this assessment, it is allowing something to be done that it seems to me ought not to exist. But with that limitation, I think it is as far as we should go.

Mr. WEEKS. I do not see how you would determine that, because there are very many individual stockholders who can not respond when an assessment is made.

Mr. MURRAY. I do not mean respond financially; I mean respond legally.

Mr. WEEKS. Oh, legally!

Mr. PADGETT. He refers to companies which can not legally own the stock.

Secretary CORTELYOU. Mr. Kane, to what extent has that practice grown of late years? Has it grown perceptibly?

Mr. KANE. Yes, sir; it is growing very perceptibly. The practice tends to increase.

Secretary CORTELYOU. Is that so in the last three or four years?

Mr. KANE. Yes, sir.

The CHAIRMAN. You may go on, Mr. Kane.

Mr. KANE (reading):

“Section 5211, United States Revised Statutes, reports of condition.

“This section should be amended so as to require reports of condition to the Comptroller of the Currency to be made in duplicate.

“Banks are requested to make their reports in duplicate and to retain a copy on the files, in order that the examiner may verify it with the books at the subsequent examination. Duplicate report blanks are sent to each bank at the time of a call. Many banks neglect or refuse to retain a copy. Many others retain only an incomplete or imperfect copy. In such cases, the examiner has no means of checking up the report with the books.

“In a number of instances where banks have failed, and a copy of the original report on file in the comptroller's office has been sent to the examiner or receiver and compared by him with the books, deliberate falsifications have been shown. In other cases, the bank's retained copy agreed with the books, but did not agree with the report furnished the comptroller. The bank officer in such cases responsible for the falsification, knowing that the examiner would verify the retained copy of the report with the books, made it correspond with the records of the bank, but, assuming that the examiner was not likely to compare the retained copy with the original report made to the comptroller, deliberately falsified the latter.

“The comptroller has long realized the necessity of having original reports of condition compared by the examiner with the books of the bank; but this practice has not been put in force because of the additional labor which the copying of over 6,800 reports five times a year would entail upon the force or upon the examiners.

“If the law were amended to require the banks to execute their reports in duplicate and to send both to the Comptroller of the Currency, one copy could be sent by the comptroller to the examiner for comparison with the books at the time of the subsequent examination. This would impose very little labor upon the bank; and under this arrangement the certainty of detection of any falsification of a report would act as a deterrent upon the bank officer disposed to practice a criminal deception of this character upon the comptroller.”

The CHAIRMAN. Is there anything that prevents the department or the comptroller from requiring triplicate copies of reports to be made?

Mr. KANE. There is nothing to prevent the comptroller from requiring it; but the banks will not comply in every case.

The CHAIRMAN. They can be made to do so. It does not seem to me that that is a matter with reference to which the law needs to be amended. That is a matter of administration, I should say.

Mr. KANE. How will the comptroller enforce compliance?

The CHAIRMAN. He can have the copies made himself if it is important.

Mr. KANE. Exactly; but there is where the difficulty lies.

The CHAIRMAN. It is not necessary to change the law to enable him to do that, I assume.

Mr. KANE. That would throw the copying on our office, and would require the limited force of clerks there to copy 7,000 reports five times a year.

The CHAIRMAN. Then you had better appeal to the Appropriations Committee to give you more force.

Mr. KANE. It would be a very simple and easy matter for each bank to make a report in duplicate.

Senator HALE. Have you ever asked them to do it where they have declined?

Mr. KANE. We have repeatedly instructed them to keep copies of the reports on file, but they do not do it. In a great many cases the examiner can not find a copy of a report.

Senator HALE. Are there many real cases that arise of this discrepancy between these reports?

Mr. KANE. We have had a number of failed-bank cases where the original reports have been sent to—

Senator HALE. You have found them in banks where you have taken possession, where they have failed?

Mr. KANE. Yes; and then the examiner or the receiver compared the original copy of the reports with the books and found these falsifications.

Senator HALE. Is there no statute providing punishment and penalty for a thing of that kind?

Mr. KANE. Oh, yes.

Senator HALE. For an officer of the bank that makes this falsification?

Mr. KANE. Yes, sir.

Senator HALE. You can enforce that?

Mr. KANE. It is a misdemeanor; we can enforce that. But there may be a number of cases that we know nothing about.

The CHAIRMAN. You may proceed.

Mr. KANE (reading):

“ Publication of liabilities of officers and directors:

“ Another suggestion in connection with section 5211, United States Revised Statutes, is submitted for consideration. This section con-

fers upon the comptroller power to prescribe the form in which reports of condition shall be made and published.

"While the banks are required to and do report to the comptroller the individual liabilities, direct and indirect, of officers and directors, no comptroller ever has required the publication of such liabilities, although generally they have admitted the advisability of such publication.

"While no amendment to the law is necessary to secure such publication, ample power being already conferred upon the comptroller for that purpose if he chooses to exercise it, the publication of liabilities of this nature in the aggregate would have a very wholesome effect, and tend to keep such liabilities within reasonable and prudent limits, as the published statements of a bank would show to the stockholders and creditors how much the officers and directors owe the association in the aggregate.

"This matter should be no longer left discretionary with the comptroller; but the law should be amended, making it compulsory for every bank to publish in the aggregate the direct and indirect liabilities of its officers and directors.

'I do not mean by this to publish the individual liabilities of officers and directors, but that total liabilities of this nature be required to be shown in the published statements of each bank."

The CHAIRMAN. Do you mean contingent liabilities as well as direct liabilities?

Mr. KANE. Direct and indirect would show in the aggregate. They show that information on the inside of the report that is made to the comptroller now, but not in the published statements.

The CHAIRMAN. You think that that would be a desirable thing to publish, do you?

Mr. KANE. I think it would be a very effective thing.

The CHAIRMAN. Effective in what way?

Mr. KANE. Effective in keeping such liabilities within the limits of prudence. It would have more effect than all the correspondence we could send out from the office.

Senator KNOX. Is it your idea that you would mention the name of the directors?

Mr. KANE. No, sir; just the aggregate of liabilities.

Senator KNOX. Suppose there were 13 directors, and you have a publication to the effect that the directors, directly and indirectly, owe \$2,000,000 to the bank—you put every director under suspicion before the public, do you not?

Mr. KANE. If that liability was beyond the limits of prudence, it would.

Senator KNOX. But I might be a director and not owe a cent to the bank, directly or indirectly.

Mr. KANE. Then you would look after those who did owe it too much.

Senator KNOX. But it might be perfectly good.

Mr. KANE. And you might try to make them reduce their liabilities.

Senator KNOX. But suppose it was a perfectly prudent thing?

Secretary CORTELYOU. How are you going to make this publication, Mr. Kane?

Mr. KANE. On the face of the published reports.

Secretary CORTELYOU. You mean the published reports of the condition of the banks.

Mr. KANE. Yes, sir; under each call.

Secretary CORTELYOU. You would simply embody that in the general report of condition?

Mr. KANE. Yes, sir.

The CHAIRMAN. In the aggregate of all banks, you mean?

Mr. KANE. When each bank publishes its report of condition, it would simply put in the published statement the same information that is contained on the inside, which shows the liabilities of officers and directors, direct so much, and indirect so much; it would show the total of those in the published statement.

Mr. BURTON. I understand that in every statement you would include that, just the same as bills discounted, amount due from state banks, etc.?

Mr. KANE. Yes, sir. Now it is all covered up in loans and discounts.

Mr. BURTON. You would sever it from loans and discounts and give it as a separate item?

Mr. KANE. Yes, sir.

Secretary CORTELYOU. Is not that done in the revised statements in New York of the state banks and trust companies?

Mr. KANE. I do not know. I think there was some movement made to have it done in New York and in one of the Western States—Michigan or Wisconsin.

The CHAIRMAN. I think it is not done in New York.

Mr. MURRAY. Mr. Chairman, at the proper time I should like to dissent from that. I do not think that is the way to get at it.

The CHAIRMAN. It strikes me, as Mr. Knox suggests, that in some cases where the loans were absolutely legitimate and beyond question it might throw the same discredit upon a bank that it would if they were improper loans. There would be no way of discriminating on the face of the papers between loans that were absolutely proper and loans that were very improper.

Mr. WEEKS. Every dollar of that indebtedness might be secured by the highest-grade collateral.

The CHAIRMAN. Yes; exactly.

Secretary CORTELYOU. I think that that is just like a number of these other suggestions, and would take us back to my original proposition of more thorough banking examination. A great many of

these things will be straightened out if we have thoroughly adequate supervision.

Mr. MURRAY. Mr. Chairman, that is such a pointed discrimination against the management of a bank—for no good reason, it seems to me—that it would be unwise to do it, if for no other reason. Why discriminate against the officers and directors of a bank whose loans may be perfectly good and leave the other large loans to the people not connected with the management not mentioned at all in the publication? It would be a very pointed discrimination.

The CHAIRMAN. Go ahead, Mr. Kane.

Mr. KANE (reading): Section 327, United States Revised Statutes.

“This section provides for a Deputy Comptroller of the Currency, to be appointed by the Secretary of the Treasury, and empowers him to perform the duties attached by law to the office of comptroller during a vacancy in the office or during the absence or inability of the comptroller. He is required to give a bond in the penalty of \$50,000.

“The legislative, executive, and judicial appropriation bill approved May 22, 1908, provides for an additional deputy comptroller, but confers no power upon him nor authority for his appointment by the Secretary of the Treasury, as in the case of the other deputy. It simply provides for a deputy comptroller at a salary of \$3,000 per annum. This deputy must therefore be appointed by the President and confirmed by the Senate.

“The anomaly is hereby presented of one deputy appointed by the Secretary of the Treasury and a lower-class deputy by the President. The status of the additional deputy should be specifically defined, as in the case of the first deputy, in order that there may be no question as to his powers or conflict of authority. The above-mentioned section should therefore be amended so as to provide for an assistant deputy, the same as in the case of the Deputy Assistant Treasurer of the United States, to be appointed by the Secretary of the Treasury, with power to perform the duties attached by law to the office of comptroller during the absence or inability of the comptroller and the deputy comptroller. The assistant deputy comptroller should also give bond in the penalty of \$50,000.

“It has been suggested that both deputies should be presidential appointees. I do not agree with this suggestion. I do not think it would be for the best interests of the service to make these places political appointments.

“The assistant deputy comptroller should be a classified civil-service employee, the same as the deputy comptroller, and the latter position should be retained in the classified service.

“To take these places out of the classified service and make them presidential appointments would subject them to political changes with each succeeding administration, with the result that in the future it would be possible, as in the past, before the position of deputy comptroller was classified, to have three inexperienced officials, unfamiliar with precedents and the practices of the office (which it takes time to acquire), in charge of the bureau at the same time. These two positions should be always filled by promotion from the ranks of those who, by years of training in the service, have acquired the

knowledge and experience necessary to qualify them for the places, and make them competent and safe advisers of a new and inexperienced chief, upon whom he can confidently rely to properly conduct the business of the bureau during his absence or inability."

The CHAIRMAN. You would apply different rules to those than you would to bank examiners?

Mr. KANE. Yes, sir. They are different positions altogether.

The CHAIRMAN. One directs the business of the other.

Mr. MURRAY. Mr. Chairman, I should like to dissent from that. Shall I dissent now? Will that save time, or shall I wait until later?

The CHAIRMAN. Your dissent will be noted, and you can give your reasons later.

Secretary CORTELYOU. You will notice that there is some difference of opinion on these banking matters even in the office of the comptroller, as well as in the banks.

The CHAIRMAN. We are more or less accustomed to these differences.

Mr. MURRAY. They are good-natured differences of opinion.

Mr. KANE. That is because these suggestions were prepared in Mr. Murray's absence, during the summer. They are my individual views. They are not Mr. Murray's.

Mr. MURRAY. Briefly, Mr. Chairman, I think there should be two deputy comptrollers.

Secretary CORTELYOU. That is the reason that I was very careful to say that these were by way of suggestion, and I was very glad to have a few of these disputed questions, because I think the discussion of them will be a good thing for all of us.

The CHAIRMAN. You have no specific recommendations yet?

Secretary CORTELYOU. No; I have no specific recommendations at present.

Mr. MURRAY. As I say, Mr. Chairman, I think there should be simply two deputy comptrollers, both on an even footing, both getting the same salary and having their work divided up by the comptroller, exactly as the Secretary of the Treasury does now with his assistants. There ought to be no deputy and assistant deputy. There should be two deputy comptrollers. The appointing power may be in the President or the Secretary of the Treasury, just as the committee may see fit to draw the statute. But they should be on an even keel and get the same salary, and their work should be assigned to them by the comptroller just as the Secretary of the Treasury assigns the work to his assistants now.

Secretary CORTELYOU. It seems to me that what would be in the nature of specific recommendations would better be in the form of a

bill that would be drafted according to the suggestions you have just made.

Mr. KANE. The matters that follow now are all of minor importance. [Reading:]

“Section 5209, U. S. R. S.—False Reports of Condition: This section makes it a misdemeanor for any officer or employee of a bank to make any false entry in any book, report, or statement of the association with the intent to deceive any officer of the association or any agent appointed to examine the affairs of the association.

“In some instances United States attorneys and the courts have held that it is not a violation of this section for a bank officer to make a false report of condition to the Comptroller of the Currency, inasmuch as the Comptroller of the Currency is not mentioned in the section.

“The section should be amended so as to make the penalty apply to false reports to the comptroller.”

The CHAIRMAN. I think, Mr. Knox, that we had that matter under discussion in the Senate, and I understood that you had made up your mind that they were included.

Senator KNOX. That was always my opinion—that a false report to the Comptroller of the Currency came within the provisions of the law. If there is any doubt about it, there is no doubt that it ought to be.

The CHAIRMAN. Yes; undoubtedly.

Mr. WEEKS. Have the courts passed on it?

Senator KNOX. I am not quite sure. I think the courts have.

Mr. PADGETT. Did you say the courts had passed upon it?

Mr. KANE. Yes; but the district attorneys principally hold to this view.

Senator KNOX. That does not amount to much.

Mr. MURRAY. They convict people right along for doing it.

Senator KNOX. I think I stated that in the Senate.

The CHAIRMAN. Yes; you did. That is the reason I made the suggestion. I remember it perfectly well.

Senator KNOX. What is the section?

Mr. KANE. Section 5209. You can not indict a man for making a false report to the comptroller under that section.

Senator TELLER. That is, you mean to say the district attorneys will not present it to the grand jury as a crime?

Mr. KANE. Yes; they will not draw an indictment.

Senator KNOX. The Attorney-General has control of that, and of course he could direct the thing to be done.

Senator TELLER. He could, of course.

Senator KNOX. That section does not seem to be here.

The CHAIRMAN. It looks to me as though you had quite a number of things there yet, Mr. Kane.

Mr. KANE. Quite a number. I am about half through with them.  
Mr. BONYNGE. You say the balance are of minor importance?

Mr. KANE. They are all matters of minor importance, with the exception of one or two of them that cover the transfer of stock to evade shareholders' liability.

The CHAIRMAN. I think we will try to have those printed, so that they can be laid before the commission to-morrow morning. Perhaps when we get back here after the recess Mr. Kane had better read the most important ones, and then we will have the whole printed.

Senator TELLER. Mr. Kane has just referred to the matter of the transfer of stock. I think that is quite an important matter, and I should like to have him read that when we return.

The CHAIRMAN. Yes; Mr. Kane, we will have you read the most important ones when we get back.

Senator TELLER. Then we will have them all printed.

The CHAIRMAN. How much time will you probably require, Mr. Murray?

Mr. MURRAY. I have been giving my ideas as Mr. Kane has been going along, in order to save time, so that I would not have to go over the ground again. In the main I assent to all of these suggestions, but here and there I do not.

The CHAIRMAN. You have some suggestions about remedies in a general way, however?

Mr. MURRAY. I should like to give my views on that point.

The CHAIRMAN. You will give us your general plan this afternoon?

Mr. MURRAY. I shall be very glad to.

The CHAIRMAN. We will be able to finish up this afternoon, I think, with both of you. We will stand adjourned until 2 o'clock.

(The Commission thereupon took a recess until 2 o'clock p. m. of the same day.)

#### AFTER RECESS.

#### STATEMENT OF MR. THOMAS P. KANE—Continued.

The CHAIRMAN. Mr. Kane, I think you may as well go on.

Mr. KANE. Mr. Chairman, do you wish to have me go over all of these remaining suggestions or only the principal ones?

The CHAIRMAN. Any that you think are important.

Mr. KANE. There are a good many things of minor importance here.

The CHAIRMAN. You can go on with them.

Mr. KANE (reading):

“Section 5172, United States Revised Statutes. Signatures to national bank notes:

“This section provides that national bank notes shall be signed by the president or vice-president and cashier of the association issuing the notes.

"It frequently happens that the office of cashier is temporarily vacant or the cashier is absent or sick and unable to sign the circulation, causing considerable delay and inconvenience to the bank.

"As the vice-president is authorized to sign circulating notes in place of the president, it is recommended that the assistant cashier be also authorized to sign in place of the cashier.

"Statute of limitations. Shareholders' liability, insolvent banks:

"The courts have held that as Congress has provided no statute of limitations applying to any action for the enforcement of shareholders' liability, the laws of the State where the action is brought are applicable. Each State has its own statute of limitations. They differ widely in regard to the time within which an action to enforce the liability must be commenced. In some States proceedings must be brought within one year after the assessment becomes payable. In others proceedings may be delayed ten years or longer.

"No State has a special statute of limitations applying to an action instituted by the receiver of an insolvent national bank to enforce the shareholders' liability. What statute of the State applies is often a matter of uncertainty, and raises a question of construction of much difficulty.

"A statute of limitations should be enacted making a uniform period throughout the United States within which such actions must be commenced. This period should be fixed at six years, which is about the average period under the various laws of the States.

"Liability of corporations holding national-bank stock ultra vires:

"The Supreme Court of the United States has frequently held that when a corporation has no power to invest its funds in the stock of a national bank, if it actually does so it can not be held liable for the assessment against it as a shareholder. It matters not how long the stock may have been held, what amount of dividends the corporation may have received, nor what part it may have taken in directing the affairs of the national bank. The law is applicable, however, to national banks holding stock as an investment of their funds in another national bank. Prior to the first decision of the Supreme Court of the United States, three United States circuit courts of appeals had held that under such circumstances the corporation was liable, notwithstanding it had exceeded its powers by making such investment.

"The result of the ruling of the Supreme Court places a premium upon the illegal exercise of powers by a corporation. All national banks and most corporations under state laws have the right to acquire stock in a national bank, provided it is accepted in good faith to realize upon a loan of money previously made. That a corporation may deliberately purchase stock in a national bank, dictate the policy of the national bank, accept dividends for years, and escape all liability when the national bank becomes insolvent, is an evil imperatively calling for a remedy, and unless corporations are prohibited from owning stock in a national bank as hereinbefore recommended, the law should be amended making corporations liable to assessment the same as individuals.

"Transfer of stock to evade shareholders' liability:

"The Supreme Court of the United States has recently held that when a shareholder in a national bank, for the purpose of escaping his liability as a shareholder, transfers his stock to a person financially

irresponsible, and the transfer is duly entered upon the books of the bank, such a shareholder can not be held liable for any contract, debt, or engagement of the association incurred after the transfer of the stock has been entered upon the books. The reason for the decision given by the court is that a shareholder, unless he owns a majority of the stock, can not control the policy of the bank. If he is afraid of the management by the directors, he ought to have some method of retiring from the bank. And if he is unable to find some purchaser for his stock who is financially responsible, there is no way left open to him but to give away his stock to some one who is execution-proof. The result of this decision by the Supreme Court has thrown the practice of enforcing liability of shareholders who have transferred their stock shortly before the insolvency of the bank, with intent to escape liability, into great confusion. The Supreme Court of the United States did not give the slightest intimation as to the method by which the extent of the liability of a shareholder who had so transferred his stock should be ascertained. It simply said he should not be held liable for debts of the bank contracted subsequent to his transfer. Whether the renewal of prior obligations would relieve him or not is uncertain. Whether the amount of his liability should be specially ascertained and assessed by the comptroller, or whether the calculation should be left to the court, is uncertain. How the assets of the bank at the time of the appointment of the receiver should be marshaled and distributed, as between obligations incurred after the transfer of stock and those incurred before, is uncertain.

"The law is in such a state of confusion since this recent decision that it is practically impossible to enforce the liability of a shareholder who has foreseen the insolvency of the bank and transferred his stock to escape liability to the depositors. A statute should be passed making a transfer of stock for the purpose of evading liability absolutely void. If the shareholder has held his stock until the bank is in such a notoriously bad condition that he can not find a solvent purchaser of his stock, he ought not to be allowed to escape his full liability. The law as it now stands and as construed by the Supreme Court of the United States in the decision referred to (*McDonald v. Dewey*, 202 U. S., 510) has greatly impaired the value of the shareholders' liability as a security for depositors. The difficulties and disastrous effect of this decision, so clearly and forcibly presented in the dissenting opinion, have been fully realized."

Mr. WEEKS. How many such cases have there been?

Mr. KANE. Judge Oldham can answer that question.

Mr. OLDHAM. What is the question?

Mr. WEEKS. How many cases have there been where stock has been transferred to evade liability?

Mr. OLDHAM. In how many banks?

Mr. WEEKS. Yes; within recent years?

Mr. OLDHAM. There have been four or five.

Mr. WEEKS. In ten years?

Mr. OLDHAM. Yes, sir; more than that.

Senator TELLER. Four or five decisions of the court?

Mr. KANE. Four or five national banks since the decision of the Supreme Court where this trouble has been realized.

Mr. WEEKS. When was the decision rendered?

Mr. KANE. The date of it is not given. Judge Oldham, do you remember the date of this McDonald case?

Mr. OLDHAM. It was about three years ago; and there has never been any rule of construction, any measure of damages, any method of ascertaining the amount for which the shareholder is liable, announced by the courts. No two lawyers seem to be able to agree on it. They all have their own opinion. It is a matter of great uncertainty.

Mr. WEEKS. You would think the Government would be required to prove that the stockholder knew the condition of the bank and transferred his stock to avoid the assessment, would you not?

Mr. MURRAY. That is just the position that the Government has been put in. It has been required to prove that. In all the cases where it has been litigated, where there has been a transfer and an attempt has been made to enforce the assessment against the original holder, that has been the defense—that he did not know; and the Government has been forced to prove that he did know.

Mr. PADGETT. Under this decision, when they proved that he did know it, that does not hold him.

Mr. MURRAY. After the transfer—for any debts after the transfer.

Mr. PADGETT. Have there been any cases where you have prorated the thing and held him responsible for those before transfer and not responsible for those after?

Mr. KANE. Judge Oldham can answer that question. He has been handling these cases.

Mr. OLDMAM. It is their decision that he is not liable for any debt of the bank incurred after he disposed of his stock.

Mr. PADGETT. I understand; but in the actual administration of it have you ever been able to divide or separate them so that he has been held responsible for debts incurred before?

Mr. OLDHAM. Yes; we have done that, but it is doubtful whether that would stand if it went to the Supreme Court.

Mr. PADGETT. But as a matter of fact you have been practicing on that line, and separating in that way?

Mr. OLDHAM. We have.

Senator KNOX. That situation has existed in the States for generations, where there has been a personal liability upon the part of stockholders for the debts of the bank—as, for instance, in Pennsylvania, until recently, there always was a personal liability for debts; and the courts of equity have of course decided each case upon its own facts. They have determined first the question as to whether there was a fraudulent attempt to evade the personal liability by transferring the stock to an insolvent debtor. If they decided that there was,

then they determined what the liabilities of the bank were at the time of the transfer, and held the person guilty of that fraud responsible for his pro rata up to that time. I think it is a rule of easy application. I can tell you of dozens of cases where it has been applied by courts of equity in the case of insolvent state banks.

Mr. OLDHAM. That is true, Senator; but the trouble with that is that the Supreme Court has held that there is no right to bring suit against a shareholder until the amount of his liability is determined by the comptroller; and they do not refer to that former decision. That is an old decision; and a receiver can not go in and ask the court to ascertain how much a shareholder owes or how much is necessary to pay his debts. He is thrown out of court.

Senator KNOX. Then would not your amendment apply to that phase of the matter, instead of a general provision here that there should be an absolute liability?

Mr. OLDHAM. It could be worked out in that way, but there is an inconsistency there, and that has been one of the reasons for the confusion. One other trouble is that under the national banking act one shareholder can not be held for the failure of another to pay his assessment. Therefore, when the assessment is for the full amount you can not go into a court of equity. Equity has no jurisdiction. You have to sue the individual stockholder in a suit at law alone and not bring in anyone else. It is entirely different from the equity process of winding up a corporation and assessing the shareholders by a court of equity.

Senator DANIEL. Do you mean that according to that decision one can not be required to make up the deficiency of another?

Mr. OLDHAM. One can not be held for the deficiency of another.

Senator KNOX. It is against him individually.

Mr. PADGETT. It is an action at law, and not in equity.

Senator KNOX. There is a limit to the personal liability, the limit being the amount of his stock.

The CHAIRMAN. Go ahead, Mr. Kane.

Mr. KANE. The next question relates to the 5 per cent redemption fund. [Reading:]

" Sections 5226 to 5234, United States Revised Statutes, inclusive, and act of June 20, 1874, 5 per cent redemption fund:

" The law requires every national bank to keep on deposit with the treasurer in lawful money of the United States a sum equal to 5 per cent of its outstanding circulation, to be used for the redemption of circulating notes as presented to the department for that purpose.

" In many instances national banks neglect or refuse to reimburse the Treasury for the redemption of their circulation by failing to maintain their 5 per cent redemption fund. There have been cases in which the amount of circulating notes redeemed by the department has not only exhausted the redemption fund, but materially exceeded

50 per cent of the par value of bonds on deposit as security therefor, the banks in the meantime ignoring all requests to reimburse the outlay.

"Sections 5226 to 5243, inclusive, provide whenever any national banking association fails to redeem, in lawful money, any of its circulating notes the notes may be protested; and when the comptroller is satisfied from such protest that an association has refused to pay its circulating notes he shall declare the bonds deposited by the association forfeited to the United States and proceed to sell the bonds at public or private sale. In case of a deficiency in the proceeds of bonds the United States shall have a paramount lien upon all of the assets. Finally, the comptroller has authority to appoint a receiver. This circumlocution is deemed detrimental to the interest of the Government and the note holder and other creditors of the defaulting bank.

"In view of the fact that when a national bank has reimbursed its 5 per cent fund it is entitled to receive immediately a corresponding amount of notes redeemed and destroyed, there is no reasonable excuse for failure to keep the redemption fund practically intact; and the comptroller should have authority to appoint a receiver for refusal or neglect to make good the deficiency immediately upon notice from him to the bank. The aggregate deficiency due the Treasury from this source at times reaches millions of dollars."

Mr. WEEKS. How much is it now?

Mr. KANE. I do not know what it is now. The Treasurer of the United States keeps that account.

Mr. PADGETT. It was nearly \$30,000,000 when we were in session at Narragansett Pier.

Mr. KANE. That is the full fund. I thought you asked what the deficiency was?

Mr. WEEKS. No, no; I mean, what is the deficiency?

Mr. KANE. I do not know what the deficiency is now.

Mr. WEEKS. Do you not think a fine would cure that condition?

Mr. MURRAY. I would like to say that I think the suggestion of the receivership is altogether too drastic, and I should not subscribe to that. I think a fine of a hundred dollars a day, or something like that, would be sufficient.

Mr. WEEKS. So much a day?

Mr. MURRAY. So much a day for every day they are in default.

The CHAIRMAN. It seems to me that a fine would be sufficient if the bank was solvent.

Mr. MURRAY. The Government has never lost anything because of that. It is just a question of neglect or inattention, and the Government is assuming a liability with nothing back of it.

Mr. WEEKS. I think last spring the deficiency amounted to several millions of dollars.

The CHAIRMAN. Yes; I think it was nine millions at one time. The Government ought to have some way to protect itself; but I think

that if a fine of so much a day were imposed it would be sufficient to insure prompt action on the part of delinquent banks.

Secretary CORTELYOU. We wrote to all the banks calling attention to it very sharply. I talked to the Treasurer about it, and told him that they must understand that they must make it good at once; and in that way we got it up.

Mr. KANE (reading):

“Section 5140, United States Revised Statutes, payment of capital stock of national banks:

“Under Section 5134 of the Revised Statutes the organization certificate of a national bank is required to show the amount of capital, number of shares, the name and place of residence, and the number of shares held by each shareholder. Section 5140 requires that at least 50 per cent of the capital stock shall be paid in before the bank is authorized to begin business, and the balance in monthly installments of at least 10 per cent each. In many instances national banks are organized with the minimum number of incorporators, in whose names the entire capital is listed, the purpose being to place a large portion of the stock with bona fide holders between the date of execution of incorporation papers and the certification of payment of capital stock; in other words, to a limited extent only is such stock subscribed bona fide, a large majority of the shares being regarded as so-called ‘treasury stock.’ As the law is constructed as contemplating that subscriptions shall be received for the entire capital stock in advance of incorporation and to prohibit the holding of so-called ‘treasury stock,’ an amendment to the section in question is suggested to provide that the first and subsequent installment of capital stock shall be paid in cash by shareholders listed in the organization certificate or their duly authorized assignees.

“Section 5142, United States Revised Statutes, relating to increase in capital stock:

“At common law, and under the articles of association of national banks generally, shareholders are authorized to participate pro rata in any increase in capital stock; and legal authorities have held that shareholders are entitled to the additional stock at par, and can not be compelled to pay a premium therefor. It frequently happens that national banks desire to increase their capital stock for the purpose of acquiring the business of another national bank placed in liquidation, or of a state or private banking concern, and to place a portion of its increased capital with those interested in the absorbed institution. In the interest of banks contemplating such action, an amendment of the law is suggested to provide that the disposition and selling price of the stock shall be determined by the same stock vote by which the increase in capital is authorized.

“Section 5143, United States Revised Statutes, reduction of capital stock:

“A reduction of capital stock is frequently effected for the purpose of avoiding assessment on shareholders to make good an impairment; and the question arises as to the disposition of proceeds of assets charged off as a result of the reduction. In the case of *Jerome v. Cogswell* (204 U. S. R., 1), on appeal to the Supreme Court of the United States, it was held that where a reduction in capital stock to

avoid an assessment was approved by the Comptroller of the Currency, on the condition that no moneys should be returned to shareholders unless from proceeds of assets charged off (and the directors agreed to comply with such condition), that the equity in the charged-off assets, representing the reduced capital, was in shareholders of record at date of reduction. The law should require that the action of stockholders in authorizing a reduction of capital for the purpose of avoiding an assessment should be coupled with a resolution providing that the proceeds of the assets charged off should be returned to shareholders of record at date of reduction; or, if so determined by the requisite stock vote, brought back on the books and added to the bank's undivided profit account."

Mr. WEEKS. How frequently has that happened? You say "frequently."

Mr. KANE. Oh, we have that matter come up quite frequently in connection with the consolidation of banks. The question is raised very frequently in the office. [Reading:]

"Section 5223, United States Revised Statutes, consolidation of national banks:

"This section apparently authorizes the consolidation of national banks, but without providing the means; in consequence of which it is held by the Comptroller of the Currency that consolidation as contemplated can not be effected. When two associations contemplate consolidating their interests, it becomes necessary to place one in liquidation and increase the capital stock of the absorbing association to provide for the shareholders of the one closed, if the stock interests are to be preserved; but if no increase of capital is to be effected, the transaction resolves itself into a contract between the two associations for the transfer of assets and liabilities. The banking law of the State of New York provides explicitly for the consolidation of state banks; and it is suggested that an amendment along the line of that law, with necessary changes, be incorporated in the national-bank act."

Mr. MURRAY. I should like to say that that old section has always worked very satisfactorily so far as I have ever noticed. Banks have consolidated for forty years without any friction at all, one liquidating and increasing the capital stock of the other. I think the section works very well as it is.

Mr. WEEKS. Have there been any cases where there have been losses?

Mr. MURRAY. Not a loss. It is simply the method of effecting the consolidation.

Senator KNOX. That has the obvious advantage of discharging the liabilities of the absorbed bank and starting with a clean sheet, too. No question can arise as to the liabilities of the old stockholders under that, can it?

Mr. MURRAY. They simply go into voluntary liquidation.

Senator KNOX. And liquidate as a matter of fact?

Mr. MURRAY. And liquidate as a matter of fact.

Senator KNOX. And that clears the thing all up?

Mr. MURRAY. That clears it all up. The section, in my experience of the last ten years, works all right.

Mr. KANE. The law simply provides for consolidation, without providing the means. There is no consolidation at all, but simply the liquidation of one bank and the absorption of the other, with its liabilities and its assets.

Senator KNOX. I can not imagine any better method of doing it than that.

Mr. MURRAY. I can not, either.

Mr. KANE (reading) :

“Section 5169, United States Revised Statutes, relative to organizing and chartering national banks:

“Section 5169 requires the Comptroller of the Currency to issue a certificate authorizing the association to begin business when all conditions precedent thereto have been complied with, but confers authority to withhold the issue of certificate when he has reason to suppose that the association has been formed for any other than the purpose contemplated by law.

“Under this section the comptroller has no power to intervene until the incorporators shall have placed the entire capital stock, invested the necessary amount in United States bonds to be deposited as security for circulation, and transacted business incidental and preliminary to organization.

“In practice the comptroller requires the submission for approval of formal application for reservation of title and authority to organize prior to granting such authority, but this practice should have the support of law; and it is suggested that section 5133 be amended to confer preliminary discretion upon the comptroller in considering propositions to organize national-banking associations.

“Section 5220, United States Revised Statutes, voluntary liquidation:

“This section provides, without restriction, that any association may go into liquidation by vote of shareholders owning two-thirds of the stock. The approval of the comptroller is not required.

“As a matter of practice, however, the comptroller satisfies himself that an association is able to meet all liabilities to depositors and other creditors prior to approval of a proposition to liquidate. This practice should be supported by an amendment to the section in question, providing that, with the approval of the Comptroller of the Currency, an association may go into voluntary liquidation.

“This section should further provide, as in the case of an association whose charter expires by limitation, that the franchise of the bank shall be extended for the sole purpose of liquidation until its affairs are finally closed.

“No authority is conferred upon the Comptroller of the Currency to supervise or inquire into the affairs of an association placed in voluntary liquidation, and the sole remedy of creditors whose claims are not satisfied is that conferred by the act of June 30, 1876, which

requires a creditor to resort to the courts to establish the liability of shareholders.

"The comptroller should have authority to require reports from banks in voluntary liquidation, or from those whose corporate existence has expired by limitation, and to make such examinations as may be deemed necessary in the interest of creditors and shareholders, to the end that settlements may be effected as promptly as practicable and all the creditors and shareholders receive the full amount to which they may be entitled. The expense of such examinations should be paid from the appropriation for special examinations of national banks, etc."

Mr. MURRAY. I should like to dissent from that last suggestion, Mr. Chairman. The expense of that examination should be, of course, on the liquidating bank; not on the general public.

Mr. KANE. If there was any way of collecting it.

Mr. MURRAY. If the bank can not pay \$25 or \$50 for an examination, it can hardly pay its depositors in full.

Mr. KANE. There would be no way of enforcing the payment of the bill if they did not pay it, except by suit. We have no bonds or anything else in the Treasury Department as a lien for the fee, as we have in other cases. In other cases, if the bank does not pay the fee, we have the bonds, and can hold them until they do pay. But in this case we would not have the bonds; and we would have to rely entirely upon the bank to make the payment.

Mr. MURRAY. No comptroller would ever give a bank the right to liquidate if it could not pay a twenty-five or fifty dollar fee to the examiner who examined it.

Mr. KANE. But this relates to an examination after liquidation.

Mr. MURRAY. During liquidation.

Mr. KANE. Yes; during liquidation; I mean, after they have actually voted themselves into liquidation. We usually make an examination of the banks that propose to go into liquidation.

Mr. WEEKS. Mr. Comptroller, what would you, as comptroller, do with such a bank if you would not let it liquidate?

Mr. MURRAY. What is your question?

Mr. WEEKS. If you refused to give it permission to liquidate, what would you do with it?

Mr. MURRAY. There is nothing you can do. They have the absolute right to go into voluntary liquidation; and, as a matter of fact, most of them are in liquidation and practically liquidated before the comptroller knows anything about it. The consent of the comptroller is not necessary for voluntary liquidation; but as a matter of fact some of the banks do ask the comptroller for papers, and ask his consent to go into liquidation. The comptroller does one of two things: He sends to the reports division and looks at the last examiner's re-

port; and if that is a good report, and the bank is in good, healthy condition, he gives them permission, which is not required under the law; but as a matter of fact, he does. And very often, if the bank is in bad condition, he sends an examiner there, and if the examiner reports that they can meet all the depositors in full and all liabilities in full, he gives them the formal consent. But that is a practice that has grown up in the office, and is not in the statute.

Mr. BONYNGE. If you found that they were not in good condition, Mr. Comptroller, what would you do then—put them in the hands of a receiver?

Mr. MURRAY. The comptroller would tell them that voluntary liquidation would not be approved by him.

Mr. BONYNGE. Then what would they do?

Mr. MURRAY. Then they would go on and vote to go into liquidation, and go ahead just the same. He could not stop them.

Mr. BONYNGE. If he found they were in such condition that he could put them into the hands of a receiver, he could do that?

Mr. MURRAY. Oh, yes; if they were insolvent it would be his duty to do that.

Mr. KANE. All the examination is for is to determine whether or not the bank can pay its liabilities to creditors. If it can, there is no objection to liquidation. If it can not, we would not permit it to go into liquidation, because we would put a receiver in charge of it.

Mr. MURRAY. If it could not pay its liabilities on demand, it would be insolvent.

Mr. WEEKS. Then, in any case, it would reduce itself to whether you would give permission, if you had authority to do so, to liquidate, or to ask for a receiver?

Mr. MURRAY. Exactly.

Mr. BONYNGE. If they were not in good condition, if they were insolvent, it would seem to be better that the Government should take control of the bank's assets than to allow the bank to go into voluntary liquidation. That is the purpose, I suppose; is it not?

Mr. KANE. Yes; that is the purpose. It may be in a condition to pay off all of its creditors, but pay nothing to its stockholders. We do not care about the stockholders so long as the creditors are provided for. [Reading:]

“Act of July 12, 1882, extension of corporate existence of national banks:

“The portion of this act relating to the first appraisal of stock does not provide for the expenses, which should be equally divided between the withdrawing shareholder and the association; nor for a limit of time within which settlement with withdrawing shareholders must be effected. The act further provides that shareholders desiring to withdraw may give notice to the board of directors within thirty days from the date of issue of certificate of the Comptroller of

the Currency authorizing extension of charter, but does not require publication of the comptroller's certificate. Amendments covering these points are deemed advisable.

“The act relating to extension also required a plate of a new design for the printing of circulating notes subsequent to extension of charter—a requirement deemed unnecessary, as well as an expensive burden upon the banks and the department. Whatever reason obtained for this provision in 1882, when the act providing for extension of charter was passed, no longer exists.

“The act of July 12, 1882, as amended by the act of March 14, 1900, relating to circulating notes, limits the amount of notes of the denomination of \$5 to one-third of the total amount of circulation issued by each national bank. The purpose of the act of March 14, 1900, was to restrict the issue of notes of the denomination of \$5 to one-third of the aggregate national-bank circulation outstanding. As a matter of fact, without any limitation on the issue of notes of this denomination, the proportion outstanding never exceeded this one-third. In the interest particularly of banks located in the smaller towns and agricultural communities, where notes of the smallest denominations are in greatest demand, it is suggested that the limitation, if any is deemed necessary, should be made to run to the total amount of circulation issued by all national banks rather than to the individual banks.

“Act of July 12, 1882, extension of corporate existence of national banks:

“Supplementing prior suggestions for amendment of this act, changes should be made in the manner of effecting an amendment to the articles of association of a national bank providing for extension of charter.

“The act in question provides that any association, at any time within two years next previous to the date of expiration of its corporate existence, may extend its period of succession by amending its articles of association, the amendment in question to be authorized by the consent in writing of shareholders owning not less than two thirds of the capital stock. This method of amending the articles of association of a national bank is the sole exception to effecting amendments by a majority stock vote of shareholders adopted at a duly called meeting.

“An amendment providing for extension of charter is one of the most, if not the most, important authorized. There should be a meeting of shareholders for the purpose of a thorough discussion of general conditions, the status of the bank, and the advisability or otherwise of continuing its existence. When the subject has been thoroughly canvassed, shareholders are in a position to vote intelligently on the resolution authorizing extension of charter. Under existing law it is customary to begin the work by obtaining written consents to extension of charter at any time within two years of expiration of the existing charter, and without any concerted action. The law further provides that the Comptroller shall satisfy himself as to the satisfactory condition of a bank before extending its charter. In practice, this is done by requiring a special examination not earlier than sixty days prior to the expiration of charter.

“In view of the foregoing it is deemed advisable to recommend that the act in question be amended to provide that the board of directors

of a national bank shall give due notice to shareholders of a meeting to be held within about three months prior to date of expiration of charter, for the purpose of considering a resolution authorizing extension of the corporate existence of the bank. It should be provided further that the resolution authorizing extension should be adopted by a vote representing at least two-thirds of the capital stock, and that every shareholder voting in favor of the resolution shall be estopped from the right to withdraw from the association, conferring that right only upon those dissenting to the extension. All shareholders voting against the extension should be authorized to withdraw by giving notice to the directors, as required by the act of July 12, 1882.

“ Sections 5154 and 5155, conversion of state banks:

“ At the time of the passage of the national-bank act it was deemed advisable to offer special inducements to state banks to convert into national banking associations; and the sections in question provide that a state bank, upon conversion, may continue to hold stock, of which it is the owner, in another bank, and also that branches may be continued on condition that the capital is joint, and assigned to the parent bank and branches in definite proportions.

“ The courts have held that it is ultra vires of a national bank to invest in stock of another corporation; and the national-bank act has been construed as prohibiting national banking associations from operating branches. The provision relating to the continued operation of branches by state banks converting should be repealed, and also the provision authorizing the continued holding of stock of other corporations, so as to place all banks in the national system upon an equal footing.”

Mr. BONYNGE. Is there any national bank now in existence that came in early that had branches as a state bank and continues the branches?

Mr. KANE. I do not think there is a bank in the system that is legally operating a branch bank under that section; but there are some that are illegally operating them. They do not comply, or they have not complied, with the provisions of the act. There is no definitely assigned proportion of the capital to any one of those banks.

The CHAIRMAN. Where are those banks located?

Mr. KANE. There are two in Philadelphia. There is one in the South, somewhere.

Mr. BONYNGE. Are they banks that were originally state banks that came in under the provisions of that section?

Mr. KANE. One of those banks opened up its branch after it came into the system. The other one had a branch in operation, at the time of conversion, but it had no part of its capital assigned to it, as required by this act; but it has continued to operate the branch. [Reading:]

“ Section 5146, United States Revised Statutes, qualification of directors:

"This section provides that at least three-fourths of the directors must be residents of the State, Territory, etc., in which the bank is located. This provision, in the case of a bank with 5 or 7 directors, is onerous at times where banks are located near state borders; and it is suggested that the proportion of state residents be reduced from three-fourths to a majority.

"The section should be further amended to provide that directors of national banks with a capital of less than \$50,000 shall be required to own only five shares. This is understood to have been the intent of the act of February 28, 1905; but it is held that the directors of a bank with a capital of over \$25,000 and less than \$50,000 must own 10 shares of stock."

We have a good deal of trouble with banks around New York in this respect, in getting the proper proportion of resident directors. Some of the directors live over in New Jersey or somewhere else near by.

Mr. MURRAY. Mr. Chairman, I should like to dissent from that. I think a director should own not only ten shares of stock, but more shares. I think he should own more stock in the corporation rather than less.

Mr. KANE. That recommendation is only for the purpose of making the intent of the act more clear. The act itself intended that directors in banks with a capital of less than \$50,000 should be required to own only five shares; but the way the law reads, it is held to apply only to banks with a capital of \$25,000. If the capital is anywhere between \$25,000 and \$50,000, we require ten shares of stock to be owned. That recommendation is intended only to make more clear the intent of the law. I think, as Mr. Murray does, that it would not do any harm to require the directors in banks with \$25,000 capital to own ten shares of stock each.

Mr. OVERSTREET. Are there many instances where there are banks of larger capital than \$25,000 and less than \$50,000?

Mr. KANE. Oh, yes; quite a number. They range from thirty to thirty-five and forty thousand dollars. There are quite a number of less than fifty thousand. [Reading:]

"Section 5147, United States Revised Statutes. Failure of directors to qualify:

"This section provides that each director, when appointed or elected, shall take the oath required, and that the latter shall be immediately forwarded to the Comptroller of the Currency. As there are numerous cases of unreasonable and long delay in taking and forwarding the required oath of directors, it is suggested that this section be amended to provide that if a director does not qualify and transmit his oath to the Comptroller of the Currency within thirty days from date of election or appointment, that a vacancy shall be immediately declared and filled by the remaining directors, as provided by section 5148."

Sometimes we are nearly an entire year, or several months, in getting the oath of a director. Sometimes they elect a man a director who refuses to qualify, but he is carried on their rolls as a director of the bank for several months before a permanent appointment is made. We have a great deal of trouble and a great deal of correspondence after annual elections in correcting that condition. [Reading:]

“Section 5150, United States Revised Statutes, president of board or directors.

“This section provides that one of the directors to be chosen by the board shall be president of the board. The organic act is interpreted by the comptroller as contemplating that the president of the association should be president of the board of directors; but this section has been construed as permitting of two presidents, one of the board and one of the bank.

“This is not believed to be the intent of the law. The substitution of the word ‘association’ or ‘bank’ for the word ‘board’ would correct this ambiguity, and make the statute plain and definite in its meaning.

“Section 5144, United States Revised Statutes, right of stockholders to vote stock not paid for.

“This section provides that no shareholder whose liability is past due and unpaid shall be allowed to vote. The question has been frequently raised as to whether the ‘liability past due and unpaid’ applies to liability on capital stock of the bank, or debt due the association. The courts have held that the liability is on account of capital stock only.

“The section should be amended so as to make its meaning clear.

“Section 5151, United States Revised Statutes, limited liability of shareholders in converted state bank.

“This section provides that every shareholder of a national bank shall be liable to the extent of the amount of his stockholdings at par in addition to the amount invested in such shares, except that shareholders of any converted state bank existing at date of passage of the act, and having an unimpaired capital of \$5,000,000 and surplus of 20 per cent (such surplus to be kept undiminished and in addition to the surplus provided by the national-bank act), shall only be liable to the extent of the amount of their stock.

“The records of the office of the Comptroller of the Currency show only one association in existence with limited stock liability. As this provision applies only to banks existing at the date of passage of the act, it is no longer operative and should be eliminated from the law.

“Section 5149, United States Revised Statutes, notice to stockholders.

“A notice by mail to stockholders is deemed equal to, if not better than by, publication in a newspaper. This section should be amended to provide that notice therein required may be given either by publication in a newspaper or by mail.

“Act of June 30, 1876, appointment of receiver to enforce liability of shareholders of bank in liquidation.

"Section 2 of this act provides that a creditor of an association placed in voluntary liquidation may enforce the individual liability of stockholders by a suit in equity in any court of the United States having original jurisdiction.

"In practice, the Comptroller of the Currency holds that when he is in receipt of evidence that the claims of creditors of an association placed in voluntary liquidation are not satisfied, he has authority to appoint a receiver for the purpose of enforcing stockholders' liability and to settle the claims of creditors. This is deemed the most direct and inexpensive method of enforcing the stock liability and settlement with creditors.

"An amendment to that effect is advised in order that there may be no question as to the comptroller's power to appoint a receiver under such circumstances.

"Section 5141, United States Revised Statutes, proceedings if a shareholder fails to pay installments on account of capital stock.

"This section might properly be amended to provide for the sale of delinquent stock at public or private sale, and also to strike out that portion of the section relating to the cancellation of stock on default in paying installments, the existing provision operating to effect a forced reduction of capital under certain circumstances.

"This section should be amended to require the payment of all installments or the sale of the delinquent stock at public or private sale within a definite period, as therein provided, and in default thereof authorize the appointment of a receiver.

"Section 5199, United States Revised Statutes, minimum bond deposit necessary to secure circulation.

"The law specifically provides that a national bank with capital of \$150,000 or less shall only be required to deposit bonds with the United States Treasurer, in trust, as security for circulation to the extent of one-fourth of the capital stock; but the minimum required for a bank with capital in excess of \$150,000 is ambiguously fixed at \$50,000 by the proviso to section 4 of the act of June 20, 1874, which relates to the retirement of circulation and the withdrawal of bonds.

"This proviso reads: 'That the amount of bonds on deposit for circulation shall not be reduced below \$50,000.'

"This clause has been construed by the department, supported by the opinion of the Attorney-General, as fixing the minimum bond deposit for banks with a capital in excess of \$150,000 at \$50,000.

"An amendment to provide that every national bank shall deposit bonds with the United States Treasurer in trust, as security for circulation to the extent of \$50,000, except that banks with capital of \$150,000 or less shall only be required to deposit bonds to the extent of one-fourth of capital stock. Such an amendment will not change the law, but will make the statute clear as to its meaning.

"Section 5173, United States Revised Statutes, plates and dies.

"This section provides that the plates, dies, etc., from which national-bank notes are printed shall be under the control and direction of the Comptroller of the Currency.

"As a matter of fact, they are in the custody of the Director of the Bureau of Engraving and Printing, in which bureau they are stored.

"The law should be amended to transfer this responsibility to the Secretary of the Treasury.

"Section 5199, United States Revised Statutes, declaration of dividends:

"This section provides that directors may semiannually declare dividends. As a matter of fact, dividends are declared annually, semiannually, quarterly, and monthly. It is suggested that the word 'semiannually' be stricken out.

"Section 5185, United States Revised Statutes, and act of February 14, 1880, organization and conversion of national gold banks:

"The section cited provided for the organization of national banking associations for the purpose of issuing notes payable in gold; but in view of the limited number of banks of that character organized, the act of February 14 provided for their conversion to currency banks. All banks organized under section 5185 have either been closed or converted into currency banks, in consequence of which it is suggested that the section and act in question be repealed."

The CHAIRMAN. I think, perhaps, the Treasury Department had better prepare for us suggestions of legislation to carry into effect such recommendations as may be agreed upon, I should say, by the comptroller and the Secretary of the Treasury. This request would not apply to cases where there is a difference of opinion.

Senator HALE. Put it into the form of a bill covering this whole scheme.

The CHAIRMAN. Yes; such of these recommendations as have the approval of the department.

Senator HALE. Then we will have something to work on.

The CHAIRMAN. Yes.

Mr. WEEKS. Mr. Chairman, I should like to ask the comptroller one question. I did not catch the recommendation that was made about increasing the amount of \$5 circulating notes. Was it to remove that restriction entirely?

Mr. BURTON. His suggestion was to have the limitation apply to the number of such notes issued by the banks generally, rather than to have it apply to those issued by each individual bank.

Mr. MURRAY. The limitation is now that they may issue a third of their circulation in \$5 notes. That works a hardship, Mr. Kane says, in certain localities where they want small notes entirely and no large notes. He suggests that instead of the individual banks being restricted to one-third the entire circulation of all the banks be restricted, so that banks in communities where they need small bills could then get the bills that they need, and this limitation as applying to them would be removed.

The CHAIRMAN. I do not think that could be done practically.

Mr. WEEKS. What I want to ask is, Why should not that restriction be entirely removed and let the bank take the circulation in such denominations as it wishes?

The CHAIRMAN. I think myself that there are some very good reasons why it should not be.

Mr. MURRAY. May I ask you, Senator, why you do not think the one-third restriction should be removed?

The CHAIRMAN. For the past twenty-four years the legislation of Congress has been framed with a view of giving the field of ones, twos, and fives to silver certificates to the greatest extent possible. The reasons for this are obvious, and while they are not perhaps as important as formerly I think the policy should be adhered to. By recent legislation in case of insufficiency of silver certificates of small denomination the Secretary is required to issue United States notes in denominations of ones, twos, and fives.

Senator HALE. The silver certificates do hold the way now.

The CHAIRMAN. Oh, yes.

Mr. OVERSTREET. Largely on account of this very limitation.

Mr. BURTON. Would there not be trouble in adjusting that among the banks?

The CHAIRMAN. I think there would be a great deal of trouble. I do not see how it could be done practically. Certain banks might take the whole amount, and then any other banks wanting \$5 notes could not get any at all.

Mr. KANE. A great many of the banks do not take any \$5 notes.

Mr. MURRAY. The \$5 notes have never exceeded one-third of the entire circulation of several hundred million.

The CHAIRMAN. We thought seriously in 1900 of restricting bank notes to a minimum denomination of \$10. That was a proposition that had a good many supporters, the object being to give the silver certificates and United States notes the entire field.

Mr. KANE. We always understood, Senator, that the intent of that law was to place the limitation on the total amount.

The CHAIRMAN. No.

Mr. KANE. To make it one-third of that, and not impose the limitation on the individual banks; but that through inadvertence it was placed on the individual banks.

The CHAIRMAN. It was not an inadvertence; the plan was adopted deliberately.

Mr. OVERSTREET. For the purpose of giving, in that particular field, the preference to the silver certificates.

Senator HALE. Do you have many complaints from the banks on this feature?

Mr. KANE. We do.

Senator HALE. What do they say?

Mr. KANE. Some of them want nearly the entire issue in \$5 notes. They say they can not handle the larger denominations in their section.

Senator HALE. For their business?

Mr. KANE. Yes, sir.

Senator HALE. They want to issue more small notes?

Mr. KANE. Yes, sir; they want to issue more small notes.

Senator HALE. Five-dollar notes?

Mr. KANE. Yes, sir; and they stay in circulation longer. If they get ten's and larger denominations, they keep coming in for redemption.

Mr. PADGETT. Would the total of the silver certificates, added to one-third of the total circulation, be more than the demand for the \$5 notes?

Mr. MURRAY. That I would not be able to say, Mr. Padgett. Mr. Chairman, you made a suggestion to the effect that you thought possibly it would not be practicable to keep the accounts of the Government straight if the limit of one-third of \$5 notes were made to apply to the entire circulation. It seems to me that that could be done just as we do now in regard to the amount of circulation that may be retired in any one month. It used to be three millions a month, and I believe now it is extended to ten millions that may be redeemed.

The CHAIRMAN. Nine.

Mr. MURRAY. Or nine. It has been very easy to keep track of that.

The CHAIRMAN. My suggestion went to this point: There are certain classes of banks which, if there was a demand for \$5 notes, would take all of their circulation in \$5 notes; and they might absorb all that the banks are entitled to. Then a large proportion of other banks might not be able to get any \$5 notes.

Mr. MURRAY. Yes; that is true.

Mr. OVERSTREET. Is there much difficulty in having those larger bank notes exchanged at the Treasury for other money of smaller denominations?

Mr. KANE. That is a question for the Treasurer's office to answer.

Secretary CORTELYOU. They are doing it a great deal better than they did before. In times of great demand there has been some difficulty.

Mr. OVERSTREET. All indications fail at some times.

Secretary CORTELYOU. Yes; in a panic. I think this matter that we are discussing now is a good deal more serious than it might appear at first glance.

The CHAIRMAN. There was an understanding in 1900 that the banks had a large amount of silver certificates of large denominations which could be replaced by certificates of small denominations. This has been done, I think, to a considerable extent.

Mr. KANE. Mr. Chairman, I think some of the practical bankers present could give some expressions of opinion on that point.

The CHAIRMAN. The question of the denomination of notes is a question of public policy which is a little aside from the convenience of bankers. Commencing in Mr. Cleveland's first administration the

policy was adopted of giving to silver certificates the field for small notes. We had at that time a large amount of silver certificates that had been issued; they would not circulate, and the Treasury could not get them into circulation. They were all of large denominations. The banks would not hold them. They paid them out as rapidly as possible. There was a general feeling of distrust, and silver certificates were to some extent discredited. Mr. Jordan, I think, originated the idea of issuing them in smaller denominations; and a provision was put on an appropriation bill providing for their issue in this form. The small note went into circulation immediately, and we heard nothing more of the fear that there was to be a parting company of gold and silver on account of the large issue of silver certificates. The whole question of redemption of silver certificates and the keeping of them always at par is involved in the question of the denomination of these notes, in my mind, and always has been; and I think that the committee acted unanimously in 1900 in making the change.

Mr. OVERSTREET. Another reason that you will recall, Mr. Chairman, was for the purpose of distributing them more widely and to a more largely scattered section of the country, and making it more difficult for them to be gathered up in large quantities and presented for redemption. The larger the denomination of the bills, the more easy it might become to gather them up in large quantities and present them for redemption, and the purpose of giving the field to what was termed the pocket money, the small denominations, was giving the preference absolutely and premeditatedly to the silver certificates.

The CHAIRMAN. There is a certain amount of circulation that is never presented for redemption, practically speaking.

Mr. OVERSTREET. Whether it was right or wrong, there was an absolutely clear intention in the framing of that legislation.

The CHAIRMAN. There is no doubt about that. You were on the conference committee, and had charge of the bill in the House.

Senator HALE. Mr. Teller, you remember that we had that matter up in the Appropriations Committee.

Senator TELLER. Yes.

Senator HALE. But we did not touch that provision.

Mr. PADGETT. In the same connection, gold certificates and greenbacks were limited to \$10 and above?

The CHAIRMAN. Yes; the original gold certificates act limited them to denominations of \$20, which was reduced to ten in 1900.

Mr. PADGETT. Not less than ten.

The CHAIRMAN. Not only has this policy been adopted by us, but a similar policy has been adopted in other countries. For instance, in Canada the field for ones and twos is given to Dominion notes. In Germany the field of the smaller denominations is given to Im-

perial notes. Our policy was adopted deliberately, and I must confess that at the moment I see no reason for changing it.

Senator TELLER. There has never been any complaint.

The CHAIRMAN. No; we have never had any particular complaint about it.

Senator KNOX. I would like to ask a question here relative to a matter that was discussed this morning, which I think is extremely important. That is, Mr. Kane, in regard to the proposed amendment prohibiting other banking corporations from holding stock in a national bank. How do you propose to enforce that as against existing holdings? I find that the national banking act specifically provides that the stock in these national associations shall be personal property, and transferable on the books of the association in such a manner as may be prescribed by the by-laws, and that every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares. Let us assume that a banking corporation of Kentucky has the right by the laws of the State of Kentucky to acquire stock in a national bank, and it does acquire stock in a national bank. How is the Government going to dispossess it?

Mr. KANE. You could not do it. You could not deprive them of their property rights; but you could make the prohibition apply to all future cases.

Senator KNOX. Then your idea would be that it would not be retroactive?

Mr. KANE. I do not see how you could make it that way.

Senator KNOX. That is what I supposed.

Senator HALE. You could not forfeit it?

Mr. KANE. No, sir.

Mr. PADGETT. What would be the situation if the National Government should pass an act providing that the banks could not hold such stock and the state law said that they could hold it?

Senator KNOX. I should assume that the National Government would have the right as to the future to say who should or should not be stockholders in a national association; but it could not go back.

Mr. PADGETT. But if the state association did purchase it notwithstanding, and owned it, who would get the proceeds in the distribution?

Senator KNOX. I suppose that it would be somewhat similar to a provision in the statute laws that a foreign corporation can not hold real estate within the borders of the State. If it goes on and acquires it notwithstanding the law, of course, it takes its chances on being able to hold it.

Mr. PADGETT. Would it work a forfeiture?

Senator KNOX. I should hardly like to risk an opinion on that.

Mr. MURRAY. Mr. Chairman, in accordance with your suggestion, I will set about with the Secretary of the Treasury and we will draft a set of amendments, to which we will all agree, and submit them. I presume that will save the time of the committee; and further than that, I presume you do not care to hear me.

The CHAIRMAN. Yes; we should be glad to hear you. You made some suggestion this morning to the effect that you had some plan of dividing the country into districts, and we will be glad to hear you on any plan of that kind.

Senator HALE. Before the comptroller leaves that matter of the preparation of a bill, I think perhaps the commission will agree with me in saying that we would like you to incorporate in this measure, in statute form, all the distinctive features that you ask us to put into the form of law.

Mr. MURRAY. Very well.

Senator HALE. Then the commission will take it up, and we shall have to consider the relative importance and perspective of all these matters.

Mr. MURRAY. Yes.

Senator HALE. But I know that I, for one, can approach this subject more quickly and more intelligently if you will put all of these things into a measure that you will present to us.

The CHAIRMAN. That was my suggestion; but the suggestion only went to the extent of such amendments as the comptroller and the Secretary could agree upon—that is, that they should come here with only such amendments as had the approval of the department.

Senator HALE. Oh, undoubtedly—only those that you present as the departmental opinion.

Mr. MURRAY. It will be our pleasure to do that at once.

Senator HALE. The sooner the better.

The CHAIRMAN. But in view of the fact that you have been thinking about these matters for some time, if you have any suggestions to make outside of those which have been touched upon by Mr. Kane's paper we should be very glad to hear you.

Senator HALE. I shall be glad to have the comptroller tell us how he thinks this division of the country into belts—

The CHAIRMAN. Or examination districts.

Senator HALE. Yes—how he thinks that can be practically put into force.

Mr. MURRAY. I shall be very glad to give you my views.

The CHAIRMAN. All of these propositions, in my mind, revolve around a better system of examination. I think that most of the evils that have been complained of can be covered and remedied by better systems of examination rather than in any other way.

Senator HALE. Yes; that is what it all comes to.

The CHAIRMAN. I think so.

**STATEMENT OF HON. LAWRENCE O. MURRAY, COMPTROLLER OF THE CURRENCY.**

**Mr. MURRAY.** Some years ago I was chief of a division in the comptroller's office—the division in which banks were organized, and the division through which the insolvent work at that time passed. There was no Insolvent Division, such as we have now, with Judge Oldham at the head of it. I became somewhat familiar at that time with the organization of banks, and with the banks that were insolvent; and later on I was deputy comptroller, and observed the same work there. When I became comptroller it seemed to me that we needed three things—a more efficient law for the comptroller to work under, whereby he would be taken out of the category of a common scold and given the power to do something; better examinations of the banks by bank examiners; and more cooperation or direction by the directors. I thought that with these three elements working in conjunction we could do better work.

I summoned the bank examiners here early in the fall—all those that could come without great expense. About 40 were present.

**Senator HALE.** You mean this last fall?

**Mr. MURRAY.** This last fall; and I addressed them twice. I told them frankly that their work was bad in the main—too hurried; too superficial; that their estimate of the assets of the banks was practically worthless; and that unless their methods improved many of them would have to be dismissed. My reason for that was that in going into a bank they spent from one hour or half an hour to part of a day there (I mean in the smaller banks), and simply copied into their reports, very often, the daily statement of the cashier. That kind of an examination seemed to me to be simply a fraud on the public; and if the Government can not do better than that it ought to withdraw from the business of supervising banking corporations. When the examiners came here we had a week's conference, with daily sessions from 9 until 5; and it developed there that we had a few very excellent men, others very good, and others poor.

**Senator HALE.** How many of your examiners did you get here?

**Mr. MURRAY.** I got about 40. I think there are about 75 or 80, all told. The ones in the far West could not come without very great expense. I intend to go to Chicago and meet them and have the same kind of a meeting there.

It occurred to me, therefore, that if we were ever to get the poorer and the indifferent examiners up to the standard of the best we must adopt some means whereby they would come in contact with each other. There is no way of doing so except to divide the country up into certain districts, take the best examiner available in that district,

make him chairman, and have meetings to discuss methods and plans of procedure, the best way to value the assets of banks, and the best and most approved methods of examining banks; and that is what I did. I divided the country up into 12 districts geographically convenient to the examiners and took a good examiner in each part of the country and put him in charge. Then I asked those 12 chairmen to come here, which they did two weeks ago, and spent the best part of a week in devising a plan of procedure, which they have submitted to me, but which I have not yet given out, as I do not approve it in full.

In the main, they lay out a programme for these four meetings a year. (They recommend, by the way, that four meetings will be too expensive on the examiners, and suggest but two annually, and I approve of this recommendation.) The plan is for the examiners around Pittsburg, for instance, to meet in Pittsburg, those around New York in New York, and the same way with Boston and other centers; and there discuss the conditions which they find in all the banks covering an area or radius of 200 or 300 miles, how they value the assets which they find in the banks, and the overextended lines of credit which they find.

For instance, one bank examiner will find certain banks in his district carrying a great amount of paper which he considers bad, and report it bad; but he does not know whether the other examiners in the country are finding the same paper or not. As a matter of fact, we found out that all the other examiners do very often, in related districts, find exactly the same paper; but each one working independently has been entirely in the dark. So by this dividing of the country into districts I hope to raise the poorer examiners up to the standard of the best, and at the same time give them the benefit of the knowledge as to paper and borrowers which the other examiners have. They are required to forward a copy of the proceedings at each district meeting to the comptroller for his information and guidance.

**Mr. PADGETT.** Are these meetings to be public or private?

**Mr. MURRAY.** They are to be private, Mr. Padgett. Those are practically, in the main, my reasons for dividing up the country in that way.

Some of the examiners have been in the service a great many years, and yet have never been to the main office. They have never talked with another examiner as to his methods of examining. So that each examiner, in the main, has been working along his own lines and telling bank clerks in the district which he examines to do certain things; and when another examiner would follow him he would tell the bankers to do different things as to bookkeeping, keeping their

accounts, and how to make certain entries. Each one has been working along independently; and that has not worked well.

By this method I hope to have some uniform system regarding not only the mechanical methods of examining the banks, but some uniform and well-executed plan of valuing the assets held by the banks. The necessity for this has been shown very plainly within the last two or three weeks, when the department has been obliged, because of the bad estimating of assets held by the banks, to withdraw its action in levying assessments to make good impaired capital. The examiners did not take time enough or pains enough to find out what was the value of the assets, but used a sort of rule-of-thumb method. The result was that it misled the comptroller; and we have had to rescind our action. I hope, by this more careful valuation of assets and a discussion of how to get at the actual facts in each case, that such errors will not occur again; because it is a very serious thing to have a formal assessment levied against a bank and have its capital declared impaired when it is not.

Senator TELLER. You mean that they underrated the assets?

Mr. MURRAY. Exactly; they undervalued the assets.

Senator TELLER. That is, they thought they were not good when it turned out that they were good?

Mr. MURRAY. Some were reported absolutely bad that were sold for three times as much as the bank paid for them the day after the examination was made.

Mr. WEEKS. Did you take the statement of one examiner, or have a special examination before you levied the assessment?

Mr. MURRAY. We have always heretofore taken the examiner's statement; but I have refused to do that now. If there is a case in dispute, I send another man there. I have done that two or three times within the last month, with the result that the second man has not agreed with the first man, and no assessment has been levied at all.

Senator HALE. How did you make this geographical subdivision of the entire country? Can you give us a map so that we can visually see the subdivision?

Mr. MURRAY. Yes; I will have such a map made up.

Senator HALE. How did you do that?

Mr. PADGETT. He might take the judicial districts, for instance.

Senator HALE. I want to see how he did it.

Mr. MURRAY. I took the country and divided it into districts, and took a central point for each, so that the examiner, in traveling to this central place, would have the least possible travel, as he has to pay his own expenses. For instance, around Boston I made it as central as I could, and made New York the central point for the Connecticut examiners and the New Jersey examiners; and in that

way I made a nucleus whereby all the examiners, taking into consideration the district which they must cover, could get most easily to this central point, where the chairman is to have his office.

Senator HALE. So that your basis in making the subdivision was not geographical lines, but, rather, the center from which you have reckoned?

Mr. MURRAY. It was made, Senator, so that the examiners would have the least travel to get there. That was my point.

Senator HALE. Yes. In covering the whole country in that way, how many districts did this scheme of yours embrace?

Mr. MURRAY. Twelve.

The CHAIRMAN. Do you remember how many of those districts were on the Pacific?

Mr. MURRAY. Two, I think. The distances there are, unfortunately, very great.

Senator HALE. Yes.

Senator TELLER. How many are there west of the Mississippi River, if you recall? That is what we folks in the West consider the West—the area west of the Mississippi River.

Mr. MURRAY. Four.

Senator HALE. We call that the Middle West.

Senator TELLER. We do not; we call it West—all west of the Mississippi River. We call Illinois the East.

Mr. MURRAY. I would like to state that another and probably more important reason for dividing the country up, and having this conference of examiners, is that very often an examiner is sent into a new district to do entirely new work. By attending these meetings he will know the general condition of every bank before he goes into the district, and what the examiners for some time past have found, and have a copy, if need be, of their reports. That is one of the weaknesses of a new man going in at present to examine a new list of banks.

Senator HALE. How many examiners have you appointed during the last year?

Mr. MURRAY. I do not remember how many my predecessor appointed.

Senator HALE. How many do you think?

Mr. MURRAY. I should say six or eight, Senator.

Senator HALE. Not more than that?

Mr. MURRAY. No, sir.

Senator HALE. Do you see them?

Mr. MURRAY. Every time. We summon them here; and not only do I see them, but the Secretary wants to bring them on here and see them and catechise them.

Senator HALE. You do not mean to send anybody about this work unless he is very competent by character, experience, and observation?

Mr. MURRAY. I hope not. That is my idea.

Senator HALE. Do you know of any instance where any man has been appointed within the last year unless he has presented to you in person good qualifications?

Mr. MURRAY. No, sir.

Mr. KANE. It has been our practice, Senator, in starting out new men (even men with banking experience), to put them under the tutelage of some older examiner and have him go through with the new man and make a number of examinations with him before he starts out on his own account.

Mr. BURGESS. Mr. Comptroller, I should like to ask you a question. You spoke awhile ago of having more bank examiners appointed as assistant bank examiners. Could you do that under the existing law, or would it require an amendment?

Mr. MURRAY. There is no such thing as an assistant examiner under the present plan. Very often an examiner who has a large number of banks to examine employs his own assistants, and pays them himself out of the fees which he receives.

Mr. BURGESS. Then, if it went to the salary system, I understood that perhaps some such plan as that might be worked out. It occurred to me as a valuable one. I should think that if these examiners went in pairs, a competent one and an experienced one with a bright new fellow, they might make a very much more valuable man out of the young fellow than he otherwise could be, and do it sooner.

The CHAIRMAN. Are these assistants appointed with your approval?

Mr. MURRAY. No, they are not.

The CHAIRMAN. Should they not be? It seems to me that in order to keep up the discipline they certainly ought to send these names to you for approval.

Mr. MURRAY. The examiners in charge at New York and Chicago and some of the other cities employ their own men. They have no commissions.

Mr. WEEKS. They pay them?

Mr. MURRAY. They pay them out of their own fees. The Government has no connection with them at all.

Mr. BURGESS. That is a bad system.

The CHAIRMAN. It is a pretty responsible place just the same; and they have important duties to discharge.

Mr. MURRAY. That is true.

Mr. PADGETT. They are simply clerks and assistants of the examiner, who is responsible for their work.

Mr. BURTON. In checking over reports, would it not be convenient to have two men go together to the bank in many instances, particularly in the case of the larger banks?

Mr. MURRAY. That is highly important, Mr. Burton. In fact, one man can not cover a large bank at all satisfactorily, and the comptroller has made some large districts and put one man in charge and given him enough work so that he can employ two or three or four good men and they go into a large bank and examine it promptly and quickly, and do not tie up its business for several weeks.

Senator TELLER. It is important for the bank that examinations should be disposed of promptly, is it not?

Mr. MURRAY. It is very important so far as the cash is concerned, but the question of valuing the assets, and so on, is not so important.

Senator TELLER. No.

Mr. MURRAY. That is the point where promptness is required—in examining the cash.

Senator TELLER. But so far as the cash is concerned they should dispose of it during two hours at least, should they not?

Mr. MURRAY. Yes; they try to do that, too.

Senator TELLER. They could not very well carry it over until the next day.

Mr. MURRAY. No; they try to count the cash, at least, at the time that is least busy for the banks.

The CHAIRMAN. Do they send you a list of the larger investments of the banks?

Mr. MURRAY. Yes, sir.

The CHAIRMAN. And of bills discounted?

Mr. MURRAY. They do not itemize it, but they send it in totals.

The CHAIRMAN. Yes, in bulk; but they itemize investments, do they not, ordinarily?

Mr. MURRAY. In the main; yes, sir.

Mr. BURTON. That is, bonds and so on?

Mr. MURRAY. Yes.

Mr. BURTON. Some mention has been made of inquiring into the solvency of borrowers of banks. Suppose a bank has 1,000 or 2,000 pieces of paper. There is no detailed examination made of that paper, by any means, by examiners. Do they examine more than a few of them? They do not go outside and examine as to whether A, B, C, or D, who are on those notes, are solvent, do they?

Mr. MURRAY. If the value of the security is questioned by themselves, they do. A few of the examiners do make some outside inquiries; but that is a very delicate matter and must be discreetly done, and they try to do it in that way. Of all the questions involved in bank examination that is the biggest one—the question of being able

to determine on the value of the securities held by the bank, or the commercial paper discounted by it.

Senator TELLER. Is it not a fact that they must practically rely on the bank officers in that regard? A man going into a community of 3,000 or 4,000 people, where there are two or three banks, can not know anything about it.

Mr. MURRAY. When an examiner goes several times into the same banks, he gets very closely in touch with them and can come very near arriving at a fair estimate—more so than a new man.

Senator TELLER. Yes; undoubtedly the longer he examines the bank the more he will know about it.

The CHAIRMAN. Do they actually examine every piece of paper, or do they take a list in the case of the large banks?

Mr. MURRAY. They simply list it and give the total.

The CHAIRMAN. They do not know whether the paper is there or not?

Mr. MURRAY. They handle every note.

Mr. KANE. Oh, yes; they handle every note.

The CHAIRMAN. They do not make themselves familiar with the signatures of all of them, though, I suppose?

Mr. MURRAY. No; but the comptroller has been asked to do that for forty-five years, and has said he could not do it; and, of course, nobody can do it.

Senator HALE. But, practically speaking, there is very little trouble about signatures, is there not?

Mr. MURRAY. The very last bank that failed, day before yesterday, failed because of that, Senator.

Senator HALE. But it is a very rare instance?

Mr. MURRAY. It failed because of forged paper.

Senator TELLER. That was a case where they had forged paper?

Mr. MURRAY. Where they had forged paper.

Senator DANIEL. Which bank was that, Mr. Comptroller?

Mr. MURRAY. A bank at Monticello, Ky.

Senator HALE. That must be very rare.

The CHAIRMAN. And that probably was a small bank, where the signatures could be easily verified.

Mr. MURRAY. Yes; one of the strangest things is that it is a small bank, where the signatures could have been verified.

Mr. KANE. And it was a bank in which the directors attended pretty closely to their business, and handled that paper, and did not know that the signatures were forged.

Senator HALE. How much was it?

Mr. KANE. About \$30,000.

Senator HALE. It was a small bank?

Mr. KANE. Yes.

Mr. OVERSTREET. Was the paper forged by an officer of the bank?

Mr. KANE. Yes; by the cashier, I think.

Mr. OVERSTREET. I remember an incident where the president himself, I think, had forged the names of citizens and the names of one or two officers of the bank who had an office in the same building. He had deceived all of his directors. Those are things that can not very well be guarded against.

Mr. MURRAY. I should like to make a short statement on that question of signatures, if I may, Senator.

The CHAIRMAN. Certainly.

Mr. MURRAY. From going over the correspondence of the comptroller's office for the last forty-five years I can safely say that one of the things urged upon every comptroller has been that he determine, through his examiners, the genuineness of the signatures of the paper held by the bank. Every comptroller has stated that it was humanly impossible to do that.

Senator HALE. Of course it is.

Mr. MURRAY. And every comptroller has realized that it could not be done by the examiners, nor by anybody else. But, still, people have time and time again urged that it be done; and every time a bank has failed through forgeries the comptroller has been blamed because his examiners were unable to detect the paper that was not genuine. Since I have been comptroller about a dozen plans have been submitted to me, whereby it is proposed that we have our examiner send back to the note broker every piece of commercial paper owned by the bank, and then have the note broker who sold the paper send it to the firm or corporation that issued it, and have them certify that it is genuine, return it to the note broker, and have him then return it to the bank. That, in the main, is the plan submitted. Of course, it is preposterous. There is about half a billion of that paper held to-day by the national banks. The estimates of that kind of paper alone run from \$350,000,000 to \$500,000,000 by the people best able to judge.

Mr. BURTON. You mean paper presented by note brokers?

Mr. MURRAY. I refer to so-called commercial paper, sold to the banks through note brokers. I wanted to establish by that question the fact—which is well known to everyone—that nobody, neither the comptroller, the bank examiners, the 55,000 directors of the national banks, nor anybody else in the United States can certify to genuineness of the signatures of the hundreds of millions of paper owned by the banks. That is the reason that I put that question in. It has been thought in some localities that I thought it could be done; but I simply wanted to establish, for the benefit of those who ought to know, that nobody knows whether the paper in the national banks in

the United States is genuine or not, except that of a purely local character, and even that is liable to be forged.

Senator HALE. That question will never cut much figure in this immense business.

Mr. MURRAY. I do not think it does either. I think the risk is small, but there is a risk; at the same time, it has never been officially determined that that can not be done.

Senator HALE. You have other things to spend your time on to better advantage than on this sort of fumbling around about signatures.

The CHAIRMAN. Is it not equally true, Mr. Comptroller, that the directors in the large banks can have no accurate knowledge of all the details about loans and discounts?

Mr. MURRAY. I do not think so. In the main that is true. Still, I know one of the largest and best-managed banks in the country that has a discount committee that meets every morning in the year.

The CHAIRMAN. Yes; a discount committee; that is another thing; but I am talking about a director who is not an officer of the bank and is not a member of the discount committee or the executive committee.

Mr. MURRAY. I think there is a middle course that he should take.

The CHAIRMAN. I am familiar with the management of a trust company doing a large business. The executive committee, or finance committee it is called in this case, passes upon discounts on all paper and investments made and practically manages the bank. At each of the monthly meetings of directors this committee reports that they have discounted so much paper and have made such investments; they read usually the character of the investments; that is, if they had bought a large amount of bonds they would say so. Detailed examinations are of course made from time to time of the affairs of the bank by committees of directors. I suppose that in the very largest banks a similar course is followed in most cases.

Mr. MURRAY. My plan was to try to get at the well-managed banks, the indifferently managed banks, and the poorly managed banks. The poorly managed banks ought to be examined oftener than twice a year, or once a year, as used to be the plan. They ought to be examined three or four times a year. We know pretty generally the ones that are well managed, and the ones that are badly managed, but some are very badly managed, and some are very excellently managed.

Senator HALE. What do you call a poorly managed bank?

Mr. MURRAY. I will give you a sample, Senator, if I may. A recent examination was made of a bank where the cashier was a minister. [Laughter.]

Senator HALE. I do not think you need go any further. [Laughter.]

Mr. MURRAY. He was preaching part of the time—

Senator HALE. Give us another instance.

Mr. MURRAY. And when he was away his wife managed the bank. When our examiner asked her why she did not collect the overdue paper she said she could not be running around the country collecting paper because the children needed attention. [Laughter.] I consider that a poorly managed bank.

Senator HALE. Do you mean to say that this was a national bank?

Mr. MURRAY. Yes, sir.

Senator HALE. How large?

Mr. MURRAY. I do not remember.

Senator HALE. A small bank?

Mr. MURRAY. A small bank.

Senator HALE. A country bank?

Senator TELLER. Still running?

Mr. MURRAY. Under those conditions—yes, sir. [Laughter.] That is what I call a very badly managed bank.

Senator HALE. That, of course, is a very rare instance.

Mr. MURRAY. There are others that are managed very little better.

Senator TELLER. There are not many of that kind of banks, are there?

Mr. MURRAY. I will give you the record of the last three that failed within two weeks. One of them had a board of 19 men—19 of the solid business men of the community. That bank had a capital of \$300,000. The cashier of the bank told the directors from time to time that everything was all right, and that he had loaned a certain corporation a certain amount of money. They realized one day that that corporation was insolvent and had been all the time, and it had borrowed \$200,000 of the bank, which had a \$300,000 capital. The cashier told the board that the corporation had only borrowed just exactly the amount of money it had on deposit. The legal limit was about \$42,000. They had, however, borrowed \$200,000 and they had no deposits in the bank.

Mr. WEEKS. How long had that paper been in the bank?

Mr. MURRAY. I do not know.

Mr. WEEKS. Had the examiner reported it?

Mr. MURRAY. I suppose so.

Senator HALE. Was this all a surprise to you?

Mr. MURRAY. Oh, nothing is a surprise to the comptroller's office!

Senator HALE. Or had you your suspicions about that bank?

Mr. MURRAY. When the bank fails the comptroller knows all about it—always! And generally long before it fails.

Now, I will take another one: Our examiner found a bank in bad shape. I told him to go back and convene the board of directors and

tell them the condition which he found, which he did. Every director there stood up and said that he had never dreamed that such conditions existed, and knew nothing of them. Unfortunately, the president went home and committed suicide, and we appointed a receiver for the bank.

**Senator HALE.** I suppose the directors stated what was the fact? They did not know?

**Mr. MURRAY.** They did not know; and so it goes.

**Senator TELLER.** Those are the banks that fail?

**Mr. MURRAY.** Those are the banks that I consider badly managed banks.

**Senator HALE.** As Senator Knox suggests, what would you call a well-managed bank?

**Mr. MURRAY.** I call a well-managed bank one where the discount committee approves the loans and reports to the full board once a week or once a fortnight or whatever it might be, and the full board formally ratifies the action of the discount committee and gives directions to the executive officers that they shall see to it that the law is obeyed as to loans and discounts, and that the national banking law is observed.

**Senator HALE.** Do you suppose, in such a case as you have stated, that at that particular stage which you describe as the whole board passing upon it, the entire board of directors or a majority of them are actually present, look over the papers, examine the results, and revise the action of the discount committee?

**Mr. MURRAY.** I have had five years in a bank, and exactly that was done every time. The directors would appoint an executive committee.

**Senator HALE.** Were they brought in bodily?

**Mr. MURRAY.** Oh, no; they came if they wanted to, or stayed away if they wanted to.

**Senator HALE.** That is my question—whether they really were there personally?

**Mr. MURRAY.** I do not know as to that. I will find out, by the answers to these questions, how many directors could be gotten together. The examiners so far are getting about half; probably 60 per cent of the directors are attending the meetings, and I presume that that is more than the average for the general attendance of the boards.

**The CHAIRMAN.** I suppose you will agree that in a large bank the duty of discounting paper and examining it in detail must of necessity be delegated to some officer or some committee?

**Mr. MURRAY.** There is no question about that, I think. I think that after that is done, that ought to be reported.

The CHAIRMAN. The directors, of course, must be responsible for the management of the bank, even a large bank; but they must largely trust the officers who must do the responsible work, it seems to me.

Senator HALE. They do its daily business.

The CHAIRMAN. They must do its daily business. We can not legislate good judgment and honest purpose into the minds and hearts of all men, I wish we could.

Mr. PADGETT. Should there not be at least a discount committee operating with the officers?

The CHAIRMAN. I think there is in almost every case.

Senator HALE. Yes; in the large banks; but in the small banks there is no such thing as a discount committee. They do not have any discounts.

The CHAIRMAN. You find in your experience, do you not, Mr. Comptroller, that in all of the banks that do a considerable business there is a committee of directors, or some one who acts for the directors?

Mr. MURRAY. Oh, no; there are many banks where they have never had a board meeting, and never will have one.

Senator TELLER. Do you not think that there are more boards of directors meetings now in proportion to the number of banks than there were ten years ago?

Mr. MURRAY. Just now, I think there are.

Senator TELLER. I mean during the last two or three years. I do not mean just at this moment.

Mr. MURRAY. I think there has been a general uplift in banking methods since there have been so many scandalous revelations.

Senator TELLER. Fifteen or twenty years ago, when I was a director myself at one time, I never went near a meeting; I never was asked to do so for years; but I have noticed during the past few years that the banks in my section of the country have all been holding regular board meetings. They are holding them every month, as a rule, now.

Mr. MURRAY. I should like to see the power given to the comptroller or the Government to draft a reasonable set of by-laws which every national bank receiving a charter from the Government must carry out, which would include regular meetings of the board of directors, and force them to carry out their oaths of office.

The CHAIRMAN. Do you mean that there are certain banks where the boards of directors never meet?

Mr. MURRAY. Perhaps that is too broad a statement; but in some cases our examiners can not find any evidence of any records of meetings ever being kept. I am going to ask our examiners, in a circular letter, to make a report covering a period of five years for all the banks in the country as to the number of meetings which they find

a record of in the bank, and the number of directors present; and I will be able a little later to give the commission that information covering a period of five years.

Mr. OVERSTREET. Many banks are practically owned by one man, and he simply delivers enough stock to a limited number of men to make up the board of directors.

Senator TELLER. You do not mean that the bank is owned by one man, but owned by two or three?

Mr. OVERSTREET. Yes; and they are practically the bank, and do not have any boards of directors at all.

Senator HALE. It is only nominal?

Mr. OVERSTREET. That is all.

Mr. MURRAY. In going over the records of the 500 banks which have failed, it is shown that nearly all of them, except those where there were defalcations and stealing, have failed because the directors have paid no attention to the banks at all, but have just let them drift until they actually became insolvent. The history of the office shows that no bank that has lived within the law, or where the directors have required the executive officers to stay within the law, has ever failed, and I believe one never will fail.

Mr. BURTON. Do you make that broad statement?

Mr. MURRAY. I make that broad statement. The records of the office show it. A bank which has stayed within the law and heeded the directions of the comptroller has never failed.

Senator HALE. You think, then, that what is at the bottom of failures, and the disasters that follow from failures, the losses that result, is inattention of directors to the management of the bank?

Mr. MURRAY. No; I should not want to say that, Senator.

Senator HALE. How broadly do you put it?

Mr. MURRAY. I think it is due to inefficiency of officers, and the directors failing to require the officers to stay within the law.

Senator HALE. Yes; but is it not part of your proposition that the failures, the indiscretions, and perhaps the crimes of the officers in many cases result from inattention and lack of examination and supervision by directors?

Mr. MURRAY. No; because very often no amount of attention of the directors would have prevented the crimes of bank officers.

Senator HALE. Yes, undoubtedly; but is it not your theory that most of these troubles and failures arise from inattention on the part of bank directors? Is not that the great feature that you are seeking to reform and change?

Mr. MURRAY. It is.

Mr. WEEKS. Speaking broadly, Mr. Murray, do you not think it is a very hazardous thing for us to attempt to legislate about the way men shall conduct their own business? You might have ten banks in

the city of New York, all managed on different plans as to details, but all equally successful in the results. You might have one of those banks where half the directors never attended a meeting, and still the results obtained in that bank might be excellent, because the men who did not attend the meetings might be in such a position to give advice that they would be the most valuable directors the bank could have.

Mr. MURRAY. In all human affairs, Mr. Weeks, success or failure comes down in the last analysis to the human equation and human responsibility; and I do not suppose you can legislate so as to bring the directors of national banks up to any standard. I think, however, that as long as the Government charters a bank and gives it the right to do business, it ought to be able to efficiently supervise it while it is doing business.

Senator HALE. The Government has some responsibility?

Mr. MURRAY. It seems to me it has great responsibility along that line.

Senator HALE. I think so myself.

Mr. MURRAY. Just how far we can go I do not know. I know that the supervision which we have been able to give banks under the law as it stands has been ineffectual and inefficient and disastrous. Either the Government ought to be able to draw a law and work under it efficiently or it ought to stop trying to supervise banks.

The CHAIRMAN. Should you say that the average for intelligence and efficiency of directors of national banks was equal to the average of directors of state banks and trust companies?

Mr. MURRAY. Oh, yes; equal to the intelligence of the directors of any other corporation of any kind in the respective communities in which they exist.

The CHAIRMAN. You say, as I understand you, that the large part of the losses come from the criminal acts of the officers or managers?

Mr. MURRAY. No; I should rather put it that the small part of the losses come from the criminal acts of the officers, taking the aggregate.

The CHAIRMAN. Do you not think that the percentage of loss of all the national banks through failures for any of the causes which you have enumerated is quite as small as it is in any other business?

Mr. MURRAY. I think it has been smaller.

The CHAIRMAN. Showing that, even with the failings and faults of human nature, the results have been very good in the long run?

Mr. MURRAY. Not nearly as good as they should have been.

The CHAIRMAN. What has been the percentage of losses to the business done?

Senator TELLER. Since the banks were organized?

The CHAIRMAN. Yes; since the national banks were organized.

Mr. BONYNGE. Losses to whom—to the depositors or to the stockholders?

The CHAIRMAN. To either or both.

Mr. BONYNGE. Suppose he takes them both.

The CHAIRMAN. Yes; both.

Senator HALE. What did the comptroller say—that there had been 500 bank failures?

Mr. MURRAY. Five hundred.

Senator HALE. Since the system was organized?

Mr. MURRAY. Since the system was organized. The losses to stockholders I could not give, because no estimate has ever been made up.

Mr. BONYNGE. That has been much greater than the loss to the depositors?

Mr. MURRAY. Oh, I should say so, in the shrinkage of values and everything of that kind.

Mr. BURGESS. Two or three times as much?

Mr. MURRAY. Yes; a great deal more than that.

Mr. WEEKS. Has the comptroller's office any statistics to show what has been the cause of these bank failures?

Mr. MURRAY. We can give you the record of every bank.

Mr. WEEKS. Do you know, generally speaking, what percentage of the failures has been due to the officers or directors of the bank overloaning to corporations or interests in which they had some personal interest?

Mr. MURRAY. I could not say.

Mr. KANE. There is a table in the annual report of the comptroller which shows all of that.

Mr. MURRAY. It is so general, though, that I do not think it would be of very much assistance to you. It says "X, Y, and Z, overloans to officers, general inattention," and various other things. It is very indefinite.

Senator DANIEL. What have been the losses to depositors since the panic of last year?

Mr. MURRAY. I can take up New York. There was the most critical situation. Two large national banks failed there. One of them has paid out in full, Senator, with 6 per cent interest; the other has paid out 95 per cent and will pay out in full, and there will be something left for the stockholders in both cases.

Senator DANIEL. There will be no loss to depositors?

Mr. MURRAY. There will be no loss to depositors in either of those cases.

Senator DANIEL. Have you made up statements about the percentage of bank losses with reference to bank guaranties by compulsory or voluntary process?

Mr. MURRAY. About a month ago we made up some calculations of different kinds to meet certain inquiries, Senator, that came in from

different parts of the country. Each of the inquiries was different, and very often it applied to a single State where the person was interested; and we made up the calculations for the banks in that State. In some of the States there has never been a failure of national banks, and therefore they wanted to know what they would have contributed to a fund, for instance, from which they would have received no benefit, and various other statements like that.

The CHAIRMAN. Mr. Comptroller, you spoke about the unsatisfactory character of the examinations that had been had for a series of years. Is that owing to the lack of organization or to the personality of the examiners?

Mr. MURRAY. I think it has been owing, in a way, to both—to the organization and to the personality of the examiners, and to the system under which they work.

The CHAIRMAN. The remedies for both are in your hands, are they not, now?

Mr. MURRAY. I can not remedy the fee system, but I can remedy the others.

The CHAIRMAN. But you can remedy the personality and you can remedy the organization?

Mr. MURRAY. Yes, sir.

The CHAIRMAN. For that you do not need any legislation.

Mr. MURRAY. And I can, I think, remedy the other, because I have told the examiner that even if he loses money in examining a bank he must find out its exact condition. In other words, he must stay in the bank until he has found out its exact condition and can make an accurate and complete report on the condition of that bank, even if he loses money on that examination or on any other examination.

Secretary CORTELYOU. But that you would remedy from the point of view of the bank and at the expense of the examiner?

Mr. MURRAY. I would remedy that simply by taking money out of the pocket of the man making the examination. I would make him give the service to the Government, and he would not have anything left.

Senator DANIEL. But a man ought not to be mulcted in that way.

Mr. MURRAY. No.

The CHAIRMAN. Then there is very little in the way of legislation that you think is desirable to promote efficiency in this line?

Mr. MURRAY. No; I think a very little amendment here and there to the law is all that is necessary to make it work very well, Senator.

Mr. BONYNGE. You were asked a moment ago (and I do not think you answered it) a question relative to the loss of the depositors since the organization of the national banks.

Mr. MURRAY. I think that on the total deposits in national banks the estimate is one twenty-sixth of 1 per cent.

Mr. BONYNGE. That is, annually?

Mr. MURRAY. The total loss.

Mr. BONYNGE. For the whole forty-five years?

Mr. MURRAY. Yes; for the whole forty-five years.

Senator TELLER. Will you give that again, please?

Mr. MURRAY. One twenty-sixth of 1 per cent, Senator.

Mr. BURTON. That is, in the case of the national banks?

Mr. MURRAY. The national banks.

Mr. BONYNGE. For the entire period?

Mr. MURRAY. Yes, sir.

The CHAIRMAN. That would indicate, would it not, that the general character of the management of those banks has been equal to the general business management of other organizations?

Mr. MURRAY. It would indicate that it has, as an entire system—that it was equal, if not better, than many.

Senator HALE. It must be operated better than the ordinary corporation, for this is a public corporation, started by the Government, and it ought to be pretty nearly perfect.

Mr. MURRAY. That is what I think. Now, Senator, may I make another statement here, if you please?

The CHAIRMAN. Certainly.

Mr. MURRAY. This year there will go over my desk about 15,000 letters of criticism addressed to the banks. Those letters range in length from two pages to twenty, telling the banks wherein they are violating the law and asking them to remedy those violations. There is not a bit of power in the comptroller to force them to do a single thing that he asks them to do. The whole bank act, so far as reasonable, efficient, working power in the comptroller is concerned, is simply a rope of sand. There is one penalty prescribed in the national-bank act of \$100 a day for each day's delay in a bank sending in its report of condition under the five calls made by the comptroller. They know that that penalty of \$100 a day is on the statute books, and still at the last call I had to send 500 telegrams to the banks asking them to send them in. We can not make up the total figures without them. The country is very anxious to get them, and every day means great pressure for the figures, and we can not make them up until every bank's report is in. So I simply prepared a circular (and it has been prepared for years) to the banks, telling them, if they could not get the signatures of all the directors, to send in the figures anyway, and they could complete the report afterwards; but they pay no attention to that. So I simply let the fine run. Under the call that I made last Friday they will all send in the reports. It is much easier to do that than it is to pay \$100 a day to the Government.

Mr. WEEKS. How much do you get out of the fine?

Mr. MURRAY. We fined about five of them last time; but this time we will fine them all.

Senator HALE. Did they pay?

Mr. MURRAY. They have to pay.

Senator TELLER. You have fined them, you say?

Mr. MURRAY. I fined five of them last time; and this time they have all been advised by letter just what to do, and if they do not care to heed it we will let the fine run.

Senator TELLER. Certainly; I think you ought to.

Mr. MURRAY. Next time we will not be held up at all, and will not have to pay for 500 telegrams.

The CHAIRMAN. Would you like to be given power to require a bank to change the character of the paper it has taken?

Mr. MURRAY. I think that is a very dangerous power to give the comptroller, Senator.

The CHAIRMAN. I agree, but I would like your views.

Mr. MURRAY. I think that the comptroller would then be in the position of trying to be a banker instead of being an executive officer.

Senator TELLER. He would be running all of the banks instead of being a general overseer.

Mr. MURRAY. I think the law is all right as it is; if the comptroller has the power to make the officers stay within it, it is all right as it is to-day, with the exception of a little smoothing out here and there.

Mr. BURGESS. Do I understand that you approve the recommendation of putting these bank examiners on a salary, Mr. Comptroller?

Mr. MURRAY. I have not approved it, and I should like to make a statement on that point, if I may.

The CHAIRMAN. Certainly.

Mr. MURRAY. The present system has a great deal to recommend it; and I have thought it over in every possible phase that I can think of. For instance, the Government is absolved from all bother about the accounting, which would be quite an expense to the Government. I think the whole system works very inequitably now, for this reason: In the large cities, where the value of collateral can be determined by a market quotation, and most of it is listed, of course the work is very much easier (although the transactions, of course, are larger) than is the work of the man who goes all over the country, from town to town, and over the great distances in the West, with no home life, putting up with every discomfort, and getting a very poor compensation out of it. I think that if the fee system is continued the fees ought to be graded according to the work required. I think many of the banks pay too much now; but at the same time I think that many of the banks in the smaller places pay too little. There is no real reason why a man in one of the large cities should earn in the gross \$15,000 or \$18,000 a year, and a man traveling and away from home nearly

all the year, putting up with every discomfort you can think of, should earn in the gross from \$3,000 to \$5,000. His work is a great deal harder, and the physical conditions under which he works are very much worse.

Senator HALE. And in many cases he does not get over \$2,000 net?

Mr. MURRAY. Yes; that is true. Therefore, if the fee is raised in certain districts so that the man can stay in the bank long enough to give it a fair and careful examination and not feel that he has to examine two or three banks a day (as has sometimes been done, staying in a bank an hour or an hour and a half or two hours) in order to make a living wage—if the fee is made large enough so that he will be able to stay and make a thorough examination of the bank, and then it is seen that he does it, I think the present system will work splendidly.

Senator HALE. Have you any question about the desirability of apportioning this expense, this burden on banks, not by their capital stock, but by their resources?

Mr. MURRAY. That ought to be done, Senator; because we now have banks with \$50,000 or \$100,000 capital that have a million or a million and a half of deposits; it takes a man three or four days to examine such a bank, and the fee is \$20 or \$25.

The CHAIRMAN. But you do that now partly on fees based upon capital and partly on fees based upon resources, do you not?

Mr. MURRAY. Only in the reserve cities; but I am speaking now of a little bank in a small place that has a small capital and tremendous assets in proportion. The practice has been heretofore that the directors would vote the examiner an honorarium for making that examination of just double his statutory fee; but I have made a ruling since I have been comptroller that they must not accept that. They are simply to take what the statute gives them, and let the rest go. I do not think it is wise to allow the banks to be voluntarily voting a contribution to an examiner. If the Government can not pay him, or the banks can not pay him, under the statute, what he is entitled to receive, he ought not to receive it from the board of directors as a gift.

Senator HALE. I should think that was a very marked abuse—the practice that you speak of, of the banks that are examined by the examiner, and that have an interest in every particle of work that he does, being allowed to vote him an honorarium, and his being allowed to take it. Are there many cases of that kind?

Mr. MURRAY. Not many, Senator; but there are some banks that are so large that the fee is so small that the bank officers have really felt ashamed, and they have voted this honorarium in good faith. But I have stopped it, because, as I say, I did not think it was good practice.

Mr. BONYNGE. Do you think it is wise, either, that the banks should be permitted to employ these bank examiners for their own purposes in making examinations of their banks?

Mr. MURRAY. I do not. Two or three examiners have asked me for permission to make a careful audit of banks or to give the bank officers a copy of the list of collateral which the examiner makes up at the time of his examination, and I have refused to permit it. I think the examiner should serve the Government only. If the bank wants an independent audit, there are many people who can make it and they should make it. I do not believe in mixing up the work of the bank examiner in that way at all.

Mr. WEEKS. Why should not the bank examiner furnish the officers of the bank with anything he finds in the bank?

Mr. BONYNGE. That is, with what he has found during his official examination, but not for a compensation to be received from the bank? That was the point I made.

Mr. MURRAY. My first objection to the bank examiner giving the bank officers a list of what he finds in the bank in the way of collateral is that the bank's books should show what is in the bank.

Mr. WEEKS. Yes; that is true.

Mr. MURRAY. If you mean by that, Mr. Weeks, that the bank examiner should tell the officers and directors every violation of law and every condition which he finds that he considers bad, I think he should do that; and I am going to issue instructions to that effect within a week.

Mr. WEEKS. I did not mean exactly that. Why should he not tell them if he finds that the collateral in the bank is in any way different from the collateral as the books show it? Or, in other words, why should he not furnish them with a list of the collateral as he finds it?

Mr. MURRAY. It is hard for me to answer that question, because some of the banks are run in such a careless fashion. For instance, an examiner will find on a note a pencil memorandum of some one or two letters, or three letters. He will ask what that means, and they will go to another safe and bring out an envelope with collateral in it and say "This belongs to that note." They keep no books, no register, where all the collateral is entered and where the substitutions are also entered. They will keep in one tin box some collateral which they say belongs to a certain note; and very seldom is it in the same jacket, in country banks. But the examiner takes what he finds; or if he does find a discrepancy, he asks where it is. Sometimes he finds it and sometimes he does not.

Mr. BURGESS. With reference to this question of bank examiners, I want your opinion about another matter, Mr. Comptroller. What do you think of the wisdom of having the office take control of all

these assistants, and perhaps increase the number and thus build up a corps from which vacancies can be filled with more competent men, who have had actual experience? Could not that be done?

Mr. MURRAY. Do you mean under the present plan?

Mr. BURGESS. Could it be done under existing law? And if not, what do you think of the wisdom of having a statute which would authorize that method of procedure?

Mr. MURRAY. I think that would tend toward getting in trained men all the time to recruit the men that drop out.

Mr. BURGESS. That is the way it occurred to me; but I wanted your opinion about it. As it is, I understand, you only appoint an examiner when the service requires an additional man?

Mr. MURRAY. As it is now, when we appoint a man, for instance, at New York or one of the large cities, and give him those banks, I would not approve of the policy of dictating the men whom he shall take to assist him, because he is responsible under his oath of office for that work, and he should select his own men. Therefore, under the present system, I should not be in favor of it. But if you put them under a salary system and grade the salaries, and the Government appoints all of the people, then I should think that that would work splendidly.

The CHAIRMAN. The matter of the fee of the examiner is made by law a matter of regulation of the department, is it not?

Mr. MURRAY. No; the matter of fees is statutory.

The CHAIRMAN. In all cases?

Mr. MURRAY. No; in the reserve cities it is fixed by the comptroller and the Secretary of the Treasury. I had a statement drawn up, which I should like to introduce if you would like to have it, showing exactly what the fees are.

The CHAIRMAN. We should like to have it. I knew that in the large cities it was subject to regulation, and I had an impression that it was all over the country.

Mr. MURRAY. I will hand it to the stenographer and let him incorporate it, if you please.

(The paper referred to by Mr. Murray is as follows:)

#### FEES FOR EXAMINATIONS.

Section 5240, United State Revised Statutes, provides for the compensation of national-bank examiners as follows:

*Country banks.*—For banks not located in reserve cities, or not in the States of Oregon, California, and Nevada, or not in the Territories, the examiners shall receive compensation as follows: Capital less than \$100,000, \$20; \$100,000 and less than \$300,000, 25; \$300,000 and less than \$400,000, \$35; \$400,000 and less than \$500,000, \$40; \$500,000 and less than \$600,000, \$50; \$600,000 and over, \$75. Oklahoma same as country banks.

Banks in reserve cities, Territories, and the States of Oregon, California, and Nevada the examiners shall receive such compensation as may be fixed by the Secretary of the Treasury upon the recommendation of the Comptroller of the Currency. The rates are now as follows:

*Reserve cities.*—\$300,000 and less, \$50; \$500,000 and less, \$60; \$750,000 and less, \$80; less than \$1,000,000, \$100; \$1,000,000, \$120 and \$1 additional for every \$100,000 of capital in excess of \$1,000,000 capital, plus 1 cent for every \$1,000 of gross liabilities. Chicago, 1½ cents. Denver (see Colorado).

*Oregon, Washington, North and South Dakota.*—Less than \$100,000, \$30; less than \$300,000, \$35; less than \$400,000, \$45; less than \$500,000, \$50; less than \$600,000, \$60; \$600,000 and over, \$85.

*Territories.*—Less than \$100,000, \$50; less than \$200,000, \$75; \$200,000 and over, \$100, except when the aggregate liabilities are \$1,000,000 or over, then at the rate of 1 cent for each \$1,000 of such liabilities in addition to the assessment. Such rates apply to Montana, Idaho, Wyoming, Utah, Nevada, New Mexico, Arizona, Hawaii, Alaska, and Porto Rico.

*Colorado, Denver included.*—Less than \$100,000, \$35; less than \$300,000, \$40; less than \$400,000, \$50; less than \$500,000, \$55; less than \$600,000, \$65; \$600,000 and over, \$90. Denver, 2 cents on each \$1,000 on bank's liabilities in excess of \$1,000,000.

*California.*—Less than \$100,000, \$35; less than \$300,000, \$40; less than \$400,000, \$50; less than \$500,000, \$55; less than \$600,000, \$65; \$600,000 and over, \$90, except when the aggregate liabilities are \$1,000,000 or over, then at the rate of 1 cent for each \$1,000 of such liabilities in addition to the assessment.

**Mr. BONYNGE.** Mr. Comptroller, is the number of bank examiners fixed by statute, or is that within your discretion?

**Mr. MURRAY.** That is in my discretion.

**Senator HALE.** There is no limitation?

**Mr. MURRAY.** No limitation.

**Mr. BURTON.** I did not quite understand what you said in regard to saving the task of accounting, which I understood you to say was one advantage of the present system.

**Mr. MURRAY.** As it is now, the examiner has a statutory fee; he pays his own living expenses, his own railroad travel, and the subsistence and travel of his assistants if he takes them with him. So that the Government has nothing to do but to transmit to him the statutory fee.

**Mr. BURTON.** Otherwise it would have to go before the Auditor of the Treasury, and there would be considerable machinery necessary in paying their expenses?

**Mr. MURRAY.** Exactly; and in the comptroller's office we would have to have a preliminary audit. We would have to organize an auditing division, and the vouchers would go from there to the auditor of whichever department the matter was put under; and there would be quite an expensive machinery growing up for the audit from which now the Government is entirely free.

Senator DANIEL. You pay them so much a day, I suppose, on actual travel?

Mr. MURRAY. Do you refer to the examiners now, Senator? They get a statutory fee for examining a bank, depending on the capital.

Senator DANIEL. And traveling expenses?

Mr. MURRAY. No, sir; they have to pay their own traveling expenses.

Senator DANIEL. What is their fee?

Mr. MURRAY. Will you read it, Mr. Padgett? You have the list there.

(The list referred to was handed to Senator Daniel.)

The CHAIRMAN. Is there anything else, Mr. Murray, that you would like to bring to our attention? If not, we have asked some bankers (the president of the American Bankers' Association and the legislative committee of that association, and a number of other representative bankers from different parts of the country) to attend our sessions and advise with us with reference to the matters under consideration, and we will hear them to-morrow. We will be glad to have the secretary and yourself present.

Mr. MURRAY. Thank you.

The CHAIRMAN. I think a free discussion of all the points involved will be a good thing for us all.

Mr. WEEKS. May I ask Mr. Murray one question?

The CHAIRMAN. Certainly.

Mr. WEEKS. Have you considered any method of paying out the deposits in failed banks more rapidly than the assets can actually be turned into cash? There is frequent complaint, especially in the country districts, that people are unable to get their money and are embarrassed on account of it. Has that matter been brought to your attention?

Mr. MURRAY. I have thought of it a great deal; and for lack of information depositors very often sell their receivers' certificates for much less than the men who buy them up make out of them. In other words, they sell them for 40 or 50 cents on the dollar, often less, and the banks may pay out in full. My own idea is that I do not believe that the Government could pay the money in advance of the assets being converted into cash. I can not see any plan whereby that could be done. But I think that can be reached by the receiver promptly giving out to every creditor the best estimate he can make as to what those receivers' certificates will be worth, so as to prevent the original creditors selling them at a sacrifice and somebody else who can afford to hold them eventually getting par and 6 per cent interest.

Mr. WEEKS. Do you not think the receiver could be authorized to make a loan on the assets and pay out the proceeds of that loan?

The CHAIRMAN. Senator Bailey told us the other day that there were a good many unnecessary delays in the distribution of the assets of failed banks.

Mr. MURRAY. I had the receivers of all the failed banks here before me about a month ago, Senator, and I told them that any receiver who delayed closing his trust to-day was a polite robber. The average length of time in closing receiverships is about four and a half years. I think that is entirely too long.

Senator HALE. Can you not shorten it?

Mr. MURRAY. I can by putting in some new receivers and reducing their salaries, which I did.

Mr. BONYNGE. How long is it, usually, after a bank fails before the first payment is made to the depositors? How much time usually elapses?

Mr. MURRAY. I can not say what the average is, but very often we have paid a dividend of 40 or 50 per cent within a fortnight when there happened to be a good deal of money on hand and the bank had some liquid assets.

Mr. BONYNGE. That is unusual, however, I suppose?

Mr. MURRAY. That is very unusual. Again, a fair-sized dividend is often paid within a few weeks. It varies. And again, after several years, a 5 per cent dividend (a total of 5 per cent) is paid.

Mr. BONYNGE. It is pretty hard to make any average, then?

Mr. MURRAY. Mr. Kane says that he has made an estimate of about five months.

Mr. BONYNGE. About five months?

Mr. MURRAY. Yes—for the first dividend?

Mr. KANE. Yes.

Mr. MURRAY. That is too long.

Mr. BONYNGE. Is there not any way of shortening that? That seems like a very long period to have to wait for the first dividend.

Mr. KANE. Some have been paid in thirty days.

Mr. MURRAY. In New York, in the case of the two failures there, the receiver paid within six or seven months after the date of closing, a hundred per cent and interest in one case, and 95 per cent in another. It depends on the liquid form of the assets.

Mr. BURTON. Have you any rule as to the amount of dividend you must have on hand before you pay out anything?

Mr. MURRAY. We pay just what the receiver can convert into cash; and we try to distribute the money as promptly as possible, to relieve the situation in the community.

Mr. BURTON. There is no rule about waiting until he gets a certain percentage for a dividend?

Mr. MURRAY. No; we never pay less than 5 per cent, however, unless it is a final dividend. We very often make a 5 per cent divi-

dend when we can make that, rather than wait for enough money to make a 10 per cent dividend, in order to relieve the situation.

Mr. WEEKS. What would be the objection to permitting receivers to make loans on their assets and paying out the amount realized in that way?

Mr. MURRAY. Suppose the assets were not good?

Mr. WEEKS. That is the fault of the man who makes the loan.

Mr. MURRAY. I think a government officer ought not to be a party to a transaction that would lead to loss to another corporation.

Mr. WEEKS. I should think the man who takes the loan would be taking the risk there.

Mr. MURRAY. The Comptroller, in the history of the office, has allowed the receiver to pay a dividend by anticipating some collections for a few days; but he did not sleep soundly until the collections were made.

Mr. PADGETT. I would like to ask just one question here, if you please. I notice here that it says, under section 5240, "Country banks: For banks not located in reserve cities, or not in the States of Oregon, California, and Nevada, or not in the Territories, the examiners shall receive compensation as follows:" and then there is a schedule of fees given. The first one is, "Less than \$100,000 capital, \$20;" and then I notice, down below here:

"In the States of Oregon, Washington, North and South Dakota, less than \$100,000, thirty dollars."

Mr. MURRAY. The statute makes that exception—the statute itself.

Mr. KANE. No; that is under the fees fixed by the Secretary on your recommendation.

Mr. PADGETT. How does he fix the fees in Washington and North and South Dakota differently than in the other States, when it says in the first part that the exception applies to Oregon, California, Nevada, and the Territories?

Mr. KANE. We take into consideration the cost of traveling expenses—the comparative cost of travel.

Mr. PADGETT. I know.

Mr. MURRAY. You want to know where the power is, do you not?

Mr. PADGETT. Yes; I want to know where the power is.

Mr. KANE. It is all in that section of the act which confers power upon the comptroller—

Mr. PADGETT. I want to know if the statute also excepts Washington and North and South Dakota.

Mr. KANE. Here is the way the statute reads:

"All persons appointed to be examiners of national banks not located in the redemption cities specified in section 5191 of the Revised Statutes of the United States, or in any one of the States of Oregon, California, and Nevada, or in the Territories, shall receive compensation for such examination as follows:"

Mr. PADGETT. That does not mention Washington, North or South Dakota.

Mr. BURTON. The statute was passed when those were Territories, perhaps.

Mr. PADGETT. That is what I want to know—whether that is the case or not.

Mr. KANE. Yes; when this statute was passed a number of those States were Territories.

Mr. PADGETT. Do you still treat them as Territories under your construction?

Mr. KANE. Yes; we do.

Mr. PADGETT. That is what I wanted to get at.

Mr. MURRAY. And some of them complain, Mr. Padgett—in the letters which I receive a great many of the western banks complain—about the fees they have to pay being a good deal larger than those in the other States, and ask for a readjustment.

Mr. PADGETT. I just wanted to see if you treated those States and Territories as of the date of the passage of the act or of their existing condition as States.

Mr. MURRAY. Exactly; as of the date of the passage of the act.

The CHAIRMAN. If there are no further questions to be asked, we will stand adjourned until to-morrow at 11 o'clock.

(As above stated, the commission thereupon adjourned until to-morrow—Thursday, December 3, 1908—at 11 o'clock a. m.)

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WASHINGTON, D. C.,

*Thursday, December 3, 1908—11 o'clock a. m.*

The commission met pursuant to adjournment at the rooms of the Finance Committee, United States Senate, Washington, D. C.

Present: Senators Aldrich (chairman), Burrows, Hale, Knox, Daniel, Teller, and Money; Representatives Vreeland (vice-chairman), Burton, Weeks, Bonyngé, Smith, Padgett, Burgess, and Pujo.

Present also, Hon. L. A. Coolidge, Assistant Secretary of the Treasury, and Lawrence O. Murray, Comptroller of the Currency.

Present also, Mr. George M. Reynolds, president of the American Bankers' Association, president of the Continental Bank of Chicago; the legislative committee of the association, consisting of Mr. Arthur Reynolds, chairman, president Des Moines National Bank, Des Moines, Iowa; Mr. E. F. Swinney, president First National Bank, Kansas City, Mo.; Mr. J. A. McCord, vice-president Third National Bank, Atlanta, Ga.; Mr. John L. Hamilton, Hoopeston, Ill.; and Mr. W. V. Cox, president Second National Bank, Washington, D. C.

Also the following bankers present by invitation of the commission: Mr. William H. Porter, president Chemical National Bank,

New York City; Mr. Thomas P. Beal, president Second National Bank, Boston, Mass.; and Mr. Ernest A. Hamill, president Corn Exchange National Bank, Chicago, Ill.

**STATEMENT OF MR. GEORGE M. REYNOLDS, PRESIDENT OF THE AMERICAN BANKERS' ASSOCIATION AND PRESIDENT OF THE CONTINENTAL BANK OF CHICAGO, ILL.**

Mr. REYNOLDS. I suppose that in the suggestions which I offer here you want me to confine myself entirely to the suggestion of amendments relating to the administrative features of the national banking law?

The CHAIRMAN. Yes.

Mr. REYNOLDS. I have one thought in mind that I may properly suggest at this time. It may be entirely foreign to what you want me to say, but I can not resist the temptation to say it, in the light of the responsibility of the management of the comptroller's office. I think that while we are talking about the question of putting the examiners on a salary, it naturally calls to our notice the salary of the comptroller himself. Personally, I think it is inadequate; and I think some improvement should be made in that direction.

Mr. BONYNGE. What is the salary of the comptroller at present? I do not know what the salary is.

Mr. REYNOLDS. Five thousand dollars a year, as I understand.

The CHAIRMAN. About half the amount paid to some of the examiners.

Mr. REYNOLDS. About half what some of the examiners are getting. And while I am not unmindful of the trouble that would perhaps follow if you were undertaking to raise the salaries of some men in public service, still I think that the difference in the character of the business the man has under his charge should be taken into consideration, and at least something like a reasonable compensation should be given for responsible work.

When I left home I was quite convinced in my own mind that the examiners should be put upon a salary basis. At that time I was under the impression that the range of salaries should be made from perhaps \$2,400 a year to possibly \$10,000 a year and expenses. I am frank to say, however, that after listening to the discussion of the matters here yesterday and giving the matter further consideration, and also taking into consideration what the increasing of these salaries might mean in the relation of the examiners to other public employees whose salaries we know are not great, I am rather inclined to believe that it would be best to let the fee system stand, with an additional compensation of possibly 2 cents for each thousand dollars of deposits, in addition to the regular fee which they now have. I

think, as Mr. Murray suggested yesterday, that they can control the length of time that their people consume in the examination of a bank; and if you allow the examiner a sufficient compensation through the adjustment of fees such as they have been getting, with perhaps an additional 2 cents for each thousand dollars of deposits, it will make a compensation that will be sufficiently large, in my opinion, to pay them fairly well for their work. And Mr. Murray, or any comptroller, can see to it that they put in sufficient time and make their examinations more thorough.

The manner of the appointment of the examiners, in my opinion, is one of the most important things of all. I think the custom now is—although it is not a law—that if there is a vacancy in an examinership in a State, the Members of Congress, or perhaps the Senators—I do not know exactly how it is handled—agree upon some one for that position and make a recommendation to the Comptroller of the Currency or the Secretary of the Treasury in accordance with that agreement. Of course I do not understand that that is binding in any way at all, yet I think that as a matter of precedent it has been followed fairly generally. Am I not right, Mr. Murray, in that heretofore that has had a great influence in the appointing of the examiners?

**Mr. MURRAY.** That is true.

**Mr. REYNOLDS.** While I know that politicians who are successful in their candidacies for office may properly be construed to have the right to the "spoils of office," still I think that if that could be eliminated in this one particular thing, and the Secretary of the Treasury and the Comptroller of the Currency could be free to appoint examiners wholly upon their merits, you would accomplish a great deal in improving the efficiency of the bank examiners.

**The CHAIRMAN.** I am not sure what the custom has been generally. There have been two or three vacancies in my State in the position of bank examiner since I have been in the Senate, and it has been customary for the comptroller to ask me, as a Senator, if I had anybody to suggest, but accompanying it with a statement that this did not mean that he would appoint the man that I should recommend. What I have done has been to ask the bankers in my State to suggest a name to me. I simply transmitted their recommendation; but I do not know whether this course has been followed generally. I take it for granted that Mr. Murray would not hesitate to appoint a man whom he thought was efficient, even if he did not have the recommendation of Senators or Representatives.

**Senator HALE.** Or even if he did.

**The CHAIRMAN.** Yes.

**Mr. MURRAY.** May I say a word, Senator?

**The CHAIRMAN.** Yes.

Mr. MURRAY. I have appointed but three bank examiners, and one of the three was recommended by two Senators. I told the Senators that there were several applicants from that State, and that we had looked into the qualifications of every one of them and knew their standing, and I should be very glad to have their opinion of all the candidates. I gave them the papers, and we went over them together; and they recommended the best one of the lot, and he was appointed. The other two were not recommended by anybody, except as to their general standing in the community.

Senator TELLER. I do not recall that in my service in the Senate I have ever recommended any bank examiner, and I do not believe I ever have. I would not feel myself competent to do so, and I have always refrained from doing those things. I do not think any comptroller has ever asked me about any man, either. I have felt that that belonged, really, to the banks.

Mr. REYNOLDS. I hope you gentlemen will not feel that this suggestion on my part implied that I believe you would not be conscientious in the recommending of men. But while I am not very familiar with the situation now, I know that some years ago, in my own State it was quite the rule, if there was a vacancy, for the congressional delegation to agree upon a man and recommend him; and I think for some years the men in those positions from that State have been appointed in that way. It does not follow, of course, that they may not have gotten the best men; but if it grows to become a practice, I think you will readily see that it might handicap the comptroller in getting the very best men.

Senator KNOX. I should like to state, Mr. Reynolds, that my experience has been exactly that of Senator Teller. My length of service in the Senate has not been quite five years, but I represent a very populous and important State; and I never was asked by either a bank examiner or a man who was a candidate to recommend him, nor by the comptroller to recommend a man. I did on one occasion bring to the notice of the comptroller a man who had had some banking experience, who wanted to be put on the waiting list, and stated that if he would investigate him and found him to be qualified I would be very much gratified if he could get a place. But he has never gotten it. That has been my experience.

Senator MONEY. I should like to ask the comptroller a question right here, and that is this: Suppose the Senators whom you referred to had selected the worst man on that list instead of the best, what would you have done?

Mr. MURRAY. I can only refer to the two Senators. I told them I would not even consider such a recommendation if they did not recommend the best man; that I would have appointed him without any recommendation.

Senator MONEY. Then you appointed him because he was the best man, and not because the Senators had recommended him?

Mr. MURRAY. I appointed him because he was the best man recommended from that State.

Senator MONEY. And you were very glad the Senators coincided with you?

Mr. MURRAY. I was. Not only was he the best man in the State, but the outgoing examiner, who was one of the best men in the service, also said he was one of the best men in the State.

Mr. REYNOLDS. I think what has been said here has disabused my mind very largely of the theory I had in reference to that matter, and I am very glad to have it disabused, Mr. Chairman.

Senator TELLER. I recall that when Mr. Cleveland was elected he dropped some man that was well known to the bankers of my State, whose name, of course, I do not recall now, and they sent me a request that I should go to the comptroller and object to his being dropped. That I did. I did not know the man and do not now recall his name, but he was reinstated, I know. That is the only interference that I have ever had, directly or indirectly, and that was at the suggestion of the bankers of Colorado—or, rather, of Denver.

The CHAIRMAN. I do not understand that you suggest that they shall be appointed after competitive examinations?

Mr. REYNOLDS. Not at all; no. I do not believe in that. I believe the comptroller's office should be left free to handle the matter of appointments according to the best judgment of the comptroller himself, concurred in by the Secretary of the Treasury, which I understand is the practice now.

Senator MONEY. Mr. Reynolds, as long as this remark of yours has brought out some individual experiences, I want to say that I have been here a good while in both Houses, and I do not recall the fact that anybody ever consulted me or I ever consulted anybody about anything of the sort; and I never heard before that any Member of Congress or Senator had ever had the slightest thing to do with the appointment of these bank examiners.

Mr. REYNOLDS. I think the Congressmen and the Senators in my own State (I refer to Iowa) must have been more tenacious for their rights than some of you gentlemen.

Senator MONEY. I come from a State, though, whose members are not consulted about anything.

Mr. REYNOLDS. Yes; I understand.

Senator MONEY. We are on the wrong side of everything.

Mr. REYNOLDS. Personally, I should very much doubt the wisdom of changing the law so as to give the Comptroller of the Currency discretionary powers in undertaking to say when this man's note or that man's note should be paid, or the line of credit extended to him

reduced—provided, of course, he was not getting a line in excess of the limits established by law, in which event he would be violating the law, and the comptroller would have full power in the matter.

My own theory about that subject is this: That the national banking law was enacted originally for the purpose of enabling us to build up in this country a system of banking under which the interests of the public—depositors—would be safeguarded; and the Comptroller of the Currency, as I understand, was appointed with a view of supervising the conduct of banks to the extent of safeguarding the interests of the depositors and the public. I think if you give the Comptroller of the Currency discretionary power which puts him in the attitude of having supervision over the banks, which means a safeguarding of the stockholders' interests, then I am afraid you will get into deep water; and, as I remember it, Mr. Murray himself did not favor that recommendation, although it was proposed by Mr. Kane. Am I right in that, Mr. Murray?

Mr. MURRAY. You are right.

Mr. REYNOLDS. On the question of the limiting of the amount of trade paper which any bank shall take, indorsed by a firm or corporation which already has filled up the line of credit allowed by law, I am a little in doubt as to the wisdom of undertaking to fix that by law. A few of us last night in discussing this matter discovered that so far as our own banks were concerned none of us could recollect that we had a single customer who is using his full line of credit and at the same time giving us as much as 50 per cent of that line in trade paper. I can not recall it in my own bank, nor could some of the other bankers who were here present recall that their banks were carrying more than that.

I recognize that the smaller the town the more difficult it is to handle that matter; and the case recited here yesterday I think is a fair example. I should think that a bank with \$25,000 capital ought not to extend \$125,000 of credit to a concern on its trade paper, even although that trade paper may represent actual values and actual transactions. I do not think the average banker would take that much, even though it may be legitimate. And yet, on the other hand, having taken it, if it is legitimate and does not represent subsidiary companies or represent corporations in which officers are interested, it may be just as safe as any loan they have in the bank. I can not quite conceive how you are going to safeguard that matter fully without doing an injustice in the smaller cities and in the smaller towns where they are trying to encourage and build up their manufacturing industries.

Mr. VREELAND. Would you suggest any limit in proportion to capital, Mr. Reynolds? In the case of a bank of \$50,000 capital in a small town where there are some large factories, perhaps, what per-

centage of the capital, or how many times the capital, would you think it advisable, from your banking experience, to take on trade paper?

Mr. REYNOLDS. That is a little difficult to answer, Mr. Vreeland. In my own case I should be quite conservative in it; and any suggestion I might make along that line would not be as broadgauged as the average banker in these outside localities would feel that he was entitled to have. I do not think, though, that any bank should loan five times its capital, either directly or indirectly, to any concern; and in the case of the bank that we had brought to our notice yesterday, if it had loaned \$50,000 on trade paper in addition to its \$4,000 of direct line, I would regard that as the extreme outside amount; and it is more than I think I would want to have loaned if I had been running that bank. And yet, as Senator Aldrich stated, that may represent an absolutely legitimate transaction, and every dollar of the paper may be perfectly safe.

Senator KNOX. Do you not think that the amount of the deposits has something to do with that? Are not these things all relative? There are many banks, as I understand it, in the country with comparatively small capital and very large deposits. I can recall many banks that have ten times as much deposits as they have capital.

Senator TELLER. That is not uncommon in the West.

Mr. BURGESS. Nor in the South.

Mr. REYNOLDS. While that is true in some sections, yet a bank's capital is supposed to stand as a safeguard between the depositor and loss, and the larger your deposits grow to be on a small capital the smaller insurance you naturally have; so that I do not think your suggestion would be pertinent in that respect. In fact, I think it would work the other way, Senator Knox.

Senator KNOX. The larger the deposit the less the insurance?

Mr. REYNOLDS. The more certain you ought to be to conform to conservative limits with reference to lines of paper. It is the insurance fund that stands between the depositor and losses. If a bank with \$25,000 capital has \$1,000,000 deposits, and you base the lines of credit upon the deposits rather than upon the capital, if they make a mistake in their judgment they may lose four times their capital on a single line of risk.

Senator BURROWS. The larger the deposits the larger would be the liabilities?

Mr. REYNOLDS. The larger the deposits the larger would be the liabilities and the greater the risk. Therefore I think that all question of the size of loans that any bank may make should be in relation to its capital and surplus, and that its deposits should not figure in the question from that point of view.

Mr. WEEKS. As a matter of fact, Mr. Reynolds, you would consider and pass on every case that came to you on its merits?

Mr. REYNOLDS. Yes; that is very true. That is the reason I say it would be very difficult for me to make a suggestion that I think would be fair to banks in all sections of the country; because, if you take the South, you have very large deposits there, and you have very large obligations on the part of the bank to the community to furnish money in the moving of cotton.

Mr. BURGESS. Yes; and that is true of cattle, Mr. Reynolds.

Mr. REYNOLDS. Yes; cattle also.

Mr. BURGESS. I have received a letter from a banker in my district in which he goes on to discuss that matter, the danger of limitation; and he says that he frequently carries one man's commercial paper (a cattleman in the feeding season) for more than his capital, and has to do it. There is no other way to run the business.

Mr. REYNOLDS. My own belief in that respect is that a hearty cooperation between the comptroller's office and the banks themselves, through the examiners, when the standard of efficiency of the examiners has been raised, will enable the comptroller to handle that matter along lines that I think will be about as well safeguarded as it is possible to safeguard them. There are not many things perfect in this world, and I do not believe you are going to be able to make a banking law that will be absolutely perfect and ideal in every particular, because of the wide area of this country, the number of its industries, and all that sort of thing. All those things have to be taken into consideration; and I do not think you can get anything that is idealistic, so far as a bank the size of my own would be concerned, that would be fair in all cases to these little banks concerning which we have just been talking.

Senator KNOX. Then, as I understand you, you think it would be impractical to establish a hard and fast rule; and that something has to be left to the discretion of the banker, subject, of course, to a reasonable supervision by the comptroller and the examiners?

Mr. REYNOLDS. That is my idea; yes.

Senator TELLER. That is a moral supervision.

Mr. VREELAND. What is meant by being subject to supervision by the comptroller if we put no authority in his hands? That leaves it just where it was before.

Mr. REYNOLDS. So far as the larger cities are concerned, I should say that there would be no objection raised by the average banker to the limitation of trade paper, which I distinguish from commercial paper. The expression "commercial paper" was used here yesterday. I take it to mean trade paper, Mr. Murray—paper given for purchases and for business transactions, rather than paper sold by note brokers, which we as bankers denominate as commercial paper.

Senator MONEY. I should like to ask you a question, Mr. Reynolds. You come to this conclusion, I gather, considering the safety of depositors rather than the facility offered to extraordinary business?

Mr. REYNOLDS. I do.

Senator MONEY. In other words, when a concern that is doing a large business (for instance, in lumber) forms a bank principally for its own sake, and of course invites deposits and gets them, you are considering now almost exclusively the safety of the depositor, and not the enlargement of the business by these extra facilities and large credits in proportion to the capital?

Mr. REYNOLDS. I think that every bank, once it is established and opens its doors for the receipt of deposits, owes a duty to the community in which it is located, viz, to do all it can, consistently and safely, to promote the industries of that community. But after all is said and done every interest connected with the bank must always be subordinated to the safety of the depositor. As I understand it, the office of the Comptroller of the Currency and the laws regulating his actions and regulating his office are purely and wholly for the safeguarding of the public interests. I do not think that with a corps of efficient examiners it is necessary for the comptroller's office to go further than that. I think that if you do you will get into complications which will cause a great deal of trouble.

Mr. PADGETT. Mr. Reynolds, assuming a little more concrete case for illustration, if I remember correctly a few years ago the Chemical National Bank of New York City had a capital of \$300,000 and a deposit line of perhaps over \$100,000,000.

Mr. REYNOLDS. You are a little in error as to the amount; but Mr. Porter, who is president of the Chemical National Bank, is here, and you will hear from him a little later, and I would prefer that you would defer that question and put it to Mr. Porter.

Mr. PADGETT. I did not know whether the line of credit would be measured by the capital in that case.

Mr. REYNOLDS. I think Mr. Porter will tell you, however, that it was. Since then the capital has been increased.

Mr. PADGETT. I know it has been increased now.

Mr. REYNOLDS. As I started to say, I should think 50 per cent of the line of direct credit, of 10 per cent of the capital and surplus, would be an ample line to allow for trade paper, so far as the larger banks in the cities are concerned. I may not be correct in that, but I believe that 50 per cent would take care of 90 per cent of the requirements that the larger banks would have.

Mr. VREELAND. Fifty per cent of what, Mr. Reynolds?

Mr. REYNOLDS. Fifty per cent of their direct line. Let them take their full direct line, as is now allowed by law, and allow them to take 50 per cent of the amount in additional trade paper. Mr.

Weeks, you are an experienced banker. Do you not think I am right about that?

Mr. WEEKS. You mean trade paper made by any one concern?

Mr. REYNOLDS. Trade paper indorsed by any one concern.

Mr. WEEKS. I should think that was low. I should want to be governed by the circumstances and responsibility of the concern.

Mr. BURGESS. What would you think of the plan of fixing the limitation with discretion on the part of the comptroller to grant permission for excess in a particular case?

Mr. REYNOLDS. I think the comptroller would shirk that responsibility. I imagine he would. I therefore prefer not to state an amount at which I would recommend this limit, Mr. Weeks; and so I quite agree with you that it should be left to be settled on its merits.

The CHAIRMAN. As I understand you, you prefer that we should leave as much as possible to the discretion of honest directors and honest managers, and establish as few hard and fast rules as we properly can?

Mr. REYNOLDS. My own belief is that the average bank is operated by men who are honest and who conduct the business upon the belief that they are in the position (at least, the officers are) of trustees; that they are the custodians of the funds of widows, orphans, and the business interests of the community, and that there is imposed upon them a great trust. I believe that the average bank officer discharges his duty with that in mind, and I believe that in the conduct of his business he subordinates the interests of his stockholders and the interests of everybody connected with the bank to those of the public—the safety of the depositors. And yet, on the other hand, I do not think we want to lose sight of the fact that the average banker in the conduct of his business is putting his money and the money of his associates, the stockholders, at risk whenever the bank has any business transaction; and with rare exceptions I think you can bank upon the man who is running the business (whether it be in a town of 10,000, 5,000, or 1,000 inhabitants) exercising fairly good discretion and fairly good discernment in the matter of the conduct of his business. I think it is important that we should keep that in mind. But when you talk about giving the Comptroller of the Currency authority to regulate the banks, or if you go beyond letting him regulate them so far as safeguarding the public interests is concerned, you will get him into a maze of difficulties from which he will never be able to extricate himself.

Mr. PADGETT. After all, does it not reduce itself very largely to the proposition that the banker must be allowed to bank?

Mr. REYNOLDS. Yes; it does.

Senator MONEY. Let me ask you another question, Mr. Reynolds. Have you considered that there is a danger in legislating to provide

against the business incompetency of depositors and other people who deal with banks? Had we not better let these things take their own course—the usual business course?

Mr. REYNOLDS. I do not believe you can legislate so that you can properly safeguard the rights of incompetent people to do business in any direction, whether it is with a bank or a dry-goods store or a hotel or any other place; nor do I believe that you can legislate so that you will insure that all men will be honest.

Senator MONEY. Is it not rather a dangerous thing to begin to legislate so as to secure people from their own incompetence, their own lack of thrift, their own lack of business sense, or anything else?

Mr. REYNOLDS. I am certainly opposed to that theory, because I oppose the guarantee of bank deposits very largely upon that ground.

Senator MONEY. Is not a good deal of that idea involved in all this kind of protection?

Mr. REYNOLDS. It seems to me so; yes.

Senator MONEY. And ought not the men who put their money on deposit with the banks to exercise business sagacity and sense, or suffer the consequences?

Mr. REYNOLDS. I have a very high opinion of the intelligence of the average American citizen, whether he be a business man or a laborer. I am not so much in sympathy with the theory that we have to appoint a guardian for everybody who does business in America. I find them quite able to take care of themselves, generally speaking.

Senator KNOX. Mr. Reynolds, you have really spoken on both sides of this proposition, and I should like to have an answer to the concrete question.

Mr. REYNOLDS. I would not make any recommendation—

Senator KNOX. Just a minute, now. The scheme of the original law, as it has been in existence now for forty-five years, has been to leave to the bankers the determination of the question as to what extent they will discount for a customer the actual business paper drawn against the values that he presents from his customers. Is it, or is it not, in your opinion, necessary, based upon the experience of the past forty-five years, to take that discretion away from the banks and lodge it in the comptroller's office, or make any hard-and-fast rule on the subject?

Mr. REYNOLDS. I would not change it, Mr. Knox.

The next question which, as I remember, was suggested in Mr. Kane's paper was that of the impairment of the capital of a national bank.

I would disagree with Mr. Murray's recommendation that the comptroller should be given power to compel the stockholders of a national bank to make good forthwith any impairment of its capital. The fact that stockholders of a bank are often widely scattered, and

in some cases, through illness, entirely inaccessible for a time, makes it seem to me to be unwise to give the Comptroller of the Currency power to compel the stockholders to forthwith make good any impairment of the capital in their bank. If the comptroller is not satisfied with the condition of the bank, he has, I think, under the present law, sufficient authority to warrant him in keeping such a close supervision over the affairs of the bank, through the medium of an examiner, as to enable him to properly safeguard the public interest in this respect.

Mr. WEEKS. Should not that time be shortened somewhat from three months?

Mr. REYNOLDS. It is really four months now; because they have three months, and after that time they have to give a thirty-day notice.

Mr. WEEKS. Yes.

Mr. REYNOLDS. It might be shortened.

Mr. VREELAND. The State of New York has made it sixty days, in the new revision of last year.

Mr. REYNOLDS. Do you know whether they have had any experience under the rule in the matter of requiring assessments?

Mr. VREELAND. No; I could not say about that. You know the law only went into effect last winter.

Mr. MURRAY. Mr. Chairman, may I say just a word? Mr. Reynolds suggested that I could not appoint a receiver under the existing law to control an impairment unless the bank had committed an act of insolvency, or was actually insolvent. Therefore, if a bank is drifting toward insolvency, the comptroller can not appoint a receiver; his hands are tied.

Mr. REYNOLDS. You are obliged to wait until the bank is actually insolvent before you can move?

Mr. MURRAY. Until they have committed an act of insolvency, such as refusing to pay a deposit, or something like that, or are actually insolvent.

Mr. REYNOLDS. Then, if that is the case, I should recommend cutting that in two, and making it sixty days. I do not think, however, that you could do it much short of sixty days, particularly in many of the larger places. People are often scattered, and you will find some of them in Europe, some in California and elsewhere, thus requiring some time for adjustment.

Senator DANIEL. Mr. Reynolds, I want to understand a little better than I do about this matter of impairment of capital. The public may be safe and the depositors may be safe with reference to a bank very often, may they not, when there has been an impairment of capital?

Mr. REYNOLDS. Yes; indeed. I think Mr. Murray has just made that point clear.

Senator DANIEL. Can you define what is known as an "impairment of capital?"

Mr. REYNOLDS. When a bank gets into such a position that its good assets, including its cash on hand and its cash means are not sufficient to pay its depositors in full and have an amount equal to its paid-up capital, I should call that an impairment of capital.

Senator DANIEL. Its cash, you say?

Mr. REYNOLDS. Its assets—its good assets.

Senator TELLER. Bills receivable, etc.?

Mr. REYNOLDS. Investments of every character.

I should recommend that the law be changed so that the active and salaried officers of banks should not be allowed to borrow from their own banks. But I see no reason under the sun why directors should be in any wise disqualified from borrowing from their own banks, for the reason that they represent, as a rule, the most active and progressive and strongest business men of the various communities where the banks are located; and the bank officers, by reason of their close association with them, know more about their affairs than they do the affairs of outside persons.

Senator HALE. Who are the active salaried officers that you speak of?

Mr. REYNOLDS. That varies. In large cities they are usually a president, a vice-president, perhaps more than one vice-president, a cashier, and assistant cashiers. In country towns I suppose very generally the president and the vice-president are not active. They are nominal only, and their positions are honorary.

Senator MONEY. The cashier does the work in the country banks, I think. In fact, I know he does.

Mr. REYNOLDS. The cashier and assistant cashier usually run the banks in the small towns.

Senator MONEY. The cashier runs the whole thing. The others are merely figureheads.

Mr. BONYNGE. The president is ordinarily a member of the board of directors, too; is he not?

Mr. REYNOLDS. Yes.

Mr. BONYNGE. Then you would prohibit him from borrowing from his bank?

Mr. REYNOLDS. I would prohibit officers. I would say nothing about the directors further than the law now covers that matter.

Mr. WEEKS. Generally speaking, in large cities bank men are not engaged in other business. But suppose your cashier, for instance, wanted to borrow some money for a legitimate purpose, would you not prefer having him borrow of your bank to having him go to some other place and borrow, where you would not know what he was doing?

Mr. REYNOLDS. I never have, Mr. Weeks.

Mr. WEEKS. If he did borrow of you and told you exactly what he was doing, would it not be safer than to have him going somewhere else and borrowing?

Mr. REYNOLDS. I quite agree with you in that; but if you leave the door open in that respect, there are many people who would take an undue advantage of the law, and for that reason I oppose the suggestion. There is no reason why the cashier or the vice-president of our bank, who gives gilt-edged collateral for a loan, ought not to be entitled to get it from us. But I do recognize this fact: That if you leave that door open, it will be very difficult to control it.

Mr. PUJO. Could not that be obviated, Mr. Reynolds, by in all such instances having the application for the loan approved by the directors in writing?

Mr. REYNOLDS. I do not think so, because in so many instances one man will absolutely control the bank through a stock holding. He will have a set of officers who do not have more than ten shares of stock apiece, perhaps, and he will control the bank so absolutely that the reference of the application to the board of directors is only nominal in cases of that kind. That is not true in the case of city banks, but is often the case in smaller banks.

Senator MONEY. Mr. Reynolds, as a practical question, it would not be any particular hardship upon these salaried officers to adopt your suggestion, would it? Because if they are men of credit they can get what money they want to borrow from other banks just as other people can who have credit, can they not?

Mr. REYNOLDS. They can.

Senator MONEY. It would really be no particular hardship to them, but it would be a great safeguard?

Mr. REYNOLDS. I have been nearly thirty years in a bank, and I have never had my own note in my own bank, nor have I ever had the note of any active officer of the bank in my own bank. That is one extreme, I agree; and I think Mr. Weeks is right in his theory that from some points of view it would be better if I knew what my cashier was borrowing, if I had it, provided it was well secured, and could control the situation. But I do believe that if you let the bars down the little fellows through the country who want to get into speculative deals will get the money of banks; so if you permit them to borrow from their own banks a great deal of trouble is liable to follow.

Mr. PUJO. Will it not have the tendency to establish a species of espionage, you might say, upon officers working in a bank to find out from other officers in other banks whether they are borrowing from them or not? Will it not put the officer in a discredited position in his own institution?

Mr. REYNOLDS. I hardly think so. I may be wrong, but I believe that it is the rule now for bank officers to do the very thing I suggest. I think it is unusual for them to borrow of their own banks. What would you say in regard to that Mr. Murray?

Mr. MURRAY. Without going through the reports of the examiners, I could not say. There are a great many banks now where the loans are practically all to the active officers, but they are the badly-managed banks.

Mr. REYNOLDS. Of course, that is the exception to the rule.

Mr. MURRAY. That is the exception.

Senator MONEY. Mr. Murray, I am not a business man to begin with and therefore probably ought not to be entitled to be heard at all; but I know a case where the president and the cashier absolutely absorbed all the money that was loaned out.

Mr. MURRAY. That is just what I say.

Senator MONEY. And I know, also, that they have embarked in some real-estate speculations which, fortunately, have not turned out badly—but suppose they had?

Mr. MURRAY. They had no assurance that they would not turn out badly.

Senator MONEY. None in the world. They took the chances, that was all. They had the nerve to take the chances; and I believe they are both very honest men, too. I know them both, and I believe they are perfectly honest. They never had any expectation, except that the real estate was going to continue to increase in value, and that they were going to be able to pay all this money back; but there is the danger of the thing. And I want to say that I quite agree with you about that proposition.

Mr. REYNOLDS. I am not unmindful of the fact that in small towns, we will say of a thousand or fifteen hundred or two thousand people, there is usually an intense jealousy between the banks; and I can readily see how the president of one bank in a small town would be extremely reluctant to go across the street and ask the neighbor with whom he seldom speaks, because of his jealousy, for a loan. And yet I do not know how you can safeguard that matter otherwise. I go upon this theory, that if a man is good, and entitled to credit, if he can not get it in his own town he will be able to borrow the money in the city where his bank keeps its account.

Senator KNOX. Is it not the case that in all small towns under five or six thousand inhabitants the president of the bank is usually the leading business man of the community, and the man who would naturally be the best customer of a bank?

Mr. REYNOLDS. Yes.

Mr. BURGESS. That is the way it is through my section.

Senator KNOX. That has always been my observation.

Senator MONEY. Furthermore, Mr. Reynolds, if a man who is a salaried officer of a bank finds that he is being set back in any way in making money (for that is what all this means), it is very easy for him to resign his office and then go and borrow all the money he wants to from the bank.

Mr. REYNOLDS. I will have to confess, gentlemen, that I am a little old fashioned in my notions about the duties of a bank officer. I am strongly of the belief that if I elect to be an active officer in a large institution and have the custody of millions of dollars of other people's money, it is my duty, since I have elected to be a banker, to stick to the text and not to dabble in outside things.

Senator MONEY. If you wanted to borrow money you could resign and get it.

Mr. REYNOLDS. If I am not satisfied with the remuneration that comes to me as a banker who sticks to his text, then I think it is my duty to resign my position and engage in other lines of business, where I can do the things that I want to do. Now, Senator Knox (anticipating, I think, what you had in mind), my thought in this matter is that I would not prevent a corporation in which a bank officer is interested as a stockholder (I will not say a director) from borrowing money, if it is good.

Senator KNOX. Oh, no; that is another matter.

Mr. REYNOLDS. I only refer to the man as an individual.

Senator KNOX. I have a great deal of sympathy with that point of view, because my father was a country cashier under a law that absolutely made it a misdemeanor for him to engage in any other business. That is the way they ran banks in Pennsylvania until they changed the law; they would not allow a cashier of a bank to be engaged in any other business.

Senator TELLER. In those days he was the executive officer.

Senator KNOX. He was the man who ran the whole bank.

Senator TELLER. Absolutely. Nobody could issue a draft without the cashier putting his signature on it.

Mr. REYNOLDS. The rule in these matters that will apply properly to a large bank does not always apply with the same force to a small bank, for (very) many reasons; and it is extremely difficult in some of these close questions to determine which is the better course to pursue because of that.

The CHAIRMAN. It must be apparent to everybody that the actual manager of a bank, whoever he may be or whatever his title may be, ought not to loan money to himself.

Mr. REYNOLDS. That is my theory.

I am in accord with the suggestion that the reports of national banks to the Comptroller of the Currency should be issued in duplicate, as was recommended yesterday. I would go still further than

has ever been gone heretofore; and I would have an examiner who examines a national bank, if he is going to criticise anything in that bank, discuss with the president or the manager of the bank, before his report goes in, the thing that he is going to criticise. The examiner very often sends in a criticism of paper, for example, that is really not warranted, and probably would not have been sent in if a full investigation of his proposed criticisms had been made and a full discussion of them had with the managing officer of the bank. I think Mr. Murray stated yesterday that he was having his examiners discuss proposed criticism of banks with the officers.

Mr. MURRAY. I have had a circular drawn directing our examiners in every instance to discuss with the officers and directors the things that they find; because I agree with Mr. Reynolds that that is a source of bad examination and weakness, and results in unjust criticism of banks.

Mr. REYNOLDS. You are very often forced to write a great many letters about banks that could be avoided if that discussion is had with the bank officers. The bank examiners themselves would get a much clearer idea of the thing they are criticising, and the cause for criticism would, in many cases, be entirely eliminated.

Mr. MURRAY. And if they had taken the trouble to get information from the officers, there would be no criticism at all—no necessity for criticism.

Mr. REYNOLDS. That is it.

Mr. BONYNGE. There is no necessity for an amendment to the law to accomplish that purpose, is there?

Mr. REYNOLDS. I do not think so; no, sir.

I would not favor the publication of the liabilities of directors of the banks for many reasons. I do not know why it is any more necessary to publish the liabilities of the directors of your bank than it is the liabilities of any other borrowers. I think that the comptroller's office has at all times enough power to control that matter; and I think, in most cases, the mere reference of the matter to the boards of directors would cover all that is necessary to be done in those cases.

Senator MONEY. Is that in the law now?

Mr. REYNOLDS. No; I do not think it is, Mr. Money. I know that that is not in the law.

Senator MONEY. Is that a recommendation from some source?

Mr. REYNOLDS. It was one of Mr. Kane's recommendations. I do not remember what Mr. Murray's attitude was on that point.

Mr. MURRAY. I disagreed with that.

Senator MONEY. He dissented.

Mr. MURRAY. Section 5211 of the present law gives the comptroller the power to do it, if he wants to. It gives him the power to dictate

the form of the report as published; but no comptroller has ever thought that a wise thing to do, and I do not.

Senator KNOX. But you require, in the bank's statement, a separate statement of the liability of the board of directors to the bank, either direct or indirect, do you not? You get that in every bank statement?

Mr. MURRAY. Yes.

Senator KNOX. So that you know how each bank in the country stands every time you get a statement on that subject?

Mr. MURRAY. That is right; but the statement as published never shows it.

Senator KNOX. I know that; but the office gets the information?

Mr. MURRAY. Oh, yes.

Mr. REYNOLDS. I think a criticism from Mr. Murray's office where in his opinion the directors are borrowing too much will in most cases accomplish the result of reducing those lines of credit to proper limits. I do not understand that Mr. Murray has any authority by law now that could force that, other than to call their attention to it, provided these loans were not in excess of the limits prescribed by law.

So far as the appointment of a deputy comptroller is concerned, I quite agree with Mr. Murray in that the deputy should be appointed just as the present deputy is appointed, and that they should both be deputies; that the comptroller and Secretary of the Treasury should appoint both men, and in making the appointments state which has the precedence over the other, thereby establishing beyond any question of discussion for the future who should act in the case of the absence of the comptroller from his office.

Senator DANIEL. You would style the second deputy the assistant deputy?

Mr. REYNOLDS. No, I would not; I would make them both deputies.

Senator DANIEL. First and second deputy?

Mr. REYNOLDS. I would not do that; no.

Senator DANIEL. You would not do that?

Mr. REYNOLDS. No. That is a good deal like having two or three vice-presidents of a bank, and making one the first vice-president, another the second vice-president, and another the third vice-president. It is growing to be more and more the custom simply to call them all vice-presidents, and it is much more convenient in many ways.

Mr. PADGETT. Was not the effect of your suggestion to make them first and second deputies? You said "and designate in their appointment which one should have precedence."

Mr. REYNOLDS. That is the only difference I would make.

Mr. PADGETT. Does not that necessarily constitute them first and second—to give one man precedence?

**Mr. REYNOLDS.** It would, in point of fact, so far as their authority in the office in the comptroller's absence would be concerned.

**Mr. PADGETT.** Yes; that is what I understood your suggestion to be.

**Senator MONEY.** I do not think I quite caught the meaning of that, **Mr. Padgett.** Suppose the comptroller is suddenly seized with illness that prevents him from exercising any appointing power whatever or making any designation?

**Mr. PADGETT.** As I understood, the comptroller yesterday recommended that there should simply be two deputies, without any distinction between them whatever, and that he would assign to them their duties as he needed them. •

**Senator MONEY.** I know that.

**Mr. PADGETT.** And I understood Mr. Reynolds to say that he agreed with the comptroller, subject to the limitation that in their original appointments, when they were named by the appointing power (the President or the comptroller), one should be designated as having precedence over the other in authority. Then I suggested that that would be in effect making one first and the other second deputy.

**Mr. REYNOLDS.** The question of whether it is first or second deputy, or deputy and assistant deputy, is not of much consequence, after all is said and done.

I do not believe that the deputy comptrollers themselves should be on the civil-service basis, any more than I believe that the examiners should be. If I were Comptroller of the Currency, I should want to be left free to organize my office so that I should have a harmonious execution of the duties therein. I certainly would want to know, if I am responsible for the conduct of my office, that I could control the force inside.

I believe that an amendment should be made to the law including the words the Comptroller of the Currency in that part of the law relating to false reports. As I understand it, that is only a technical omission in the present law.

I think that vice-presidents and assistant cashiers should be given authority to sign national-bank notes. It is often very inconvenient to have national-bank notes signed by the presidents and the cashiers. As a matter of fact, large banks nowadays do not sign their notes. They get facsimile signatures and print them.

**Senator KNOX.** Do not the vice-presidents sign now? I have seen quite a number of vice-presidents' signatures.

**Mr. REYNOLDS.** Yes; and assistant cashiers sign; but they do not do it by any warrant of law. Since the national banking law was amended in 1892, making it obligatory on the Treasury Department to redeem those notes whether or not they are signed, the banks have assumed that the Treasury will redeem them when they are improperly signed. Consequently they have been signed quite frequently

by both vice-presidents and assistant cashiers; but it is in violation of the law, nevertheless.

Senator KNOX. Does the present law say that they must be signed by the president and the cashier?

Mr. REYNOLDS. The president and cashier. Am I not right in that?

Mr. MURRAY. The president or the vice-president and the cashier.

Mr. REYNOLDS. But there is no provision for the assistant cashier signing?

Mr. MURRAY. No.

Senator KNOX. Why is not an assistant cashier a cashier within the meaning of the law?

Mr. REYNOLDS. He is, I think.

Senator KNOX. I should so decide if I had to do it.

Mr. WEEKS. As a matter of fact, bank officers in large banks do not sign those bills at all, do they?

Mr. REYNOLDS. That is what I say. They are printed, nowadays, with facsimile signatures. I do not know when I have signed one.

Mr. WEEKS. So that it is not, really, anyone's signature.

Mr. MURRAY. And the courts have held that they are just as good if they are not signed.

The CHAIRMAN. So that it is not a very important question.

Mr. REYNOLDS. I remember that a few years ago we were taking out \$3,000,000 of circulation and our notes had all been printed, and I suppose there were two or three wagonloads of them to sign. In looking at the law I discovered that I, as cashier of the bank at that time, was expected to sign all of those notes, and it seemed to me that it provided a job for the rest of my natural life. So I investigated, and finding that they would be redeemed without any signature I reached the conclusion that they would be redeemed with anybody's signature. Consequently, we had them signed up by assistant cashiers.

Senator MONEY. That is about the usual course of business, too; is it not?

Mr. REYNOLDS. I think it is, in the larger banks.

So far as concerns the failure of national banks to properly make good their 5 per cent redemption fund, I am in favor of allowing the Comptroller of the Currency to impose a fine of \$50 or \$100 a day (I care not which) after, say, ten days. I do not know whether ten days is quite enough as between Washington and San Francisco, but I would give ample time to cover all sections of the country, and I would have the provision as to the fine give him discretion in the matter.

The CHAIRMAN. I do not think you could do that.

Mr. REYNOLDS. I do not know whether you can do it or not.

The CHAIRMAN. I think we would have to impose the fine ourselves.

Mr. REYNOLDS. You have the right now, have you not, to impose a fine in some cases?

Mr. MURRAY. For not sending in reports of conditions; yes.

Mr. REYNOLDS. Why would not that apply in this case?

The CHAIRMAN. You can fix the fine whenever you please, you mean.

Mr. BURGESS. You can remit it, in other words.

The CHAIRMAN. Yes, you can remit it, but you can not fix the fine in the sense of putting it at whatever sum you please.

Mr. BURGESS. The statute fixes it.

Mr. REYNOLDS. I am fixing it here in just the same way.

Mr. BONYNGE. You do not mean to put in the statute a fine of "\$50 or \$100," but you mean to make it either one or the other?

Mr. REYNOLDS. Make it either \$50 or \$100, but do not make it a sliding scale. It is only a suggestion as a means unto an end. Mr. Murray now is powerless to do more than call their attention to it, as I understand, and I would give him some way of enforcing it.

Senator KNOX. Would that fine apply whether the delinquency was great or small?

Mr. REYNOLDS. I do not see how you could enact a law that would not impose a fine of a specific amount.

Senator KNOX. The only suggestion I was going to make was to make it draw a pretty stiff rate of interest, and then they would be paying in accordance with the degree of delinquency.

Mr. REYNOLDS. That might be a better plan yet.

Mr. BURGESS. Yes; that would carry the amount with it. I think that is a good suggestion.

Mr. MURRAY. Whatever is done in that regard, whether it is a fine or what it is, it ought not to be remittable by the comptroller. It ought to be a specific fine and not subject to remission.

Mr. BONYNGE. What do you think of the suggestion of Senator Knox as to putting the rate of interest at a certain figure?

Mr. REYNOLDS. Up to a certain time, and then a fine beyond that; because if it is only \$500 your rate of interest is not any penalty at all.

Senator KNOX. If you made your rate very progressive and very stiff, it would be.

Mr. REYNOLDS. You might do it in that way.

Senator KNOX. There is no question about the legality of that.

Mr. REYNOLDS. For the reasons mentioned here yesterday, I am in favor of a change in the law so as to require that not more than a majority of the board of directors of any national bank to live in the State in which the bank is located. I believe the present law requires

three-fourths to live in the State. If you take a place like New York, you will find that a great many people live in New Jersey and outside of the State, and it is difficult to get the requisite number residing in New York.

Senator MONEY. You would not have anything to say with reference to the amount of stock owned by them, would you? Suppose one alien stockholder owned about nine-tenths of the stock?

Mr. REYNOLDS. I do not see how you can control that under the law.

Mr. BONYNGE. What is the reason for requiring a certain number of the directors to live in the State or town?

Mr. REYNOLDS. It is with the thought of insuring better attention to the management, I presume, more than anything else. When you speak of an alien in this connection, you mean a man who lives in another State? You do not mean a foreigner?

Senator MONEY. Oh, yes; of course I do not mean a foreigner. I mean a man living in another State.

Mr. REYNOLDS. I do not think you can control that. I do not see how you can.

Senator MONEY. I have an instance in mind of a friend of mine who owns, I think, a tremendously large majority of the stock in a bank in West Virginia.

The CHAIRMAN. You would not want to prevent his doing that would you?

Senator MONEY. Oh, no; I am just asking Mr. Reynolds whether he has any views on that point.

Mr. REYNOLDS. I do not think you can legislate and determine where men may make investments. I do not believe you can do that.

Mr. BURGESS. I know you ought not to.

Mr. REYNOLDS. I am in favor of an amendment to the present law in the case of the increasing of the capital stock of a bank (either for the purpose of absorbing the business of a bank already running, or for the purpose of increasing the surplus of the bank through selling stock at more than par), so as to allow the stockholders by a two-thirds vote to determine the price for which the stock shall be sold, and providing that the man who has a right under the law to subscribe to a proportionate amount of that stock must take the stock at that price or his failure to do so waives his rights. Under the present law he has a right to take his stock at par, I think, regardless of the price at which you are selling it.

The CHAIRMAN. Yes; he has.

Mr. REYNOLDS. A bank very often may want to increase its surplus by paying in cash when it does not want to absorb another bank. In such a case, if one man or two men, or a few stockbrokers, knowing that you are going to do this, go out and buy up your stock and try

to hold you up, I think the banks ought to be put in a position to protect themselves. That is the reason I am in favor of a change of the law in that respect.

I am opposed to changing the law so that a vacancy may be declared to exist thirty days after an election if the oath of the director is not filed. You can understand that even an ordinary case of sickness might oftentimes prevent a man for thirty days from signing his oath of office. I know that in my own experience two or three times it has taken as much as sixty days (or possibly three months in one case) to get the oath of a director.

Senator HALE. You would let the comptroller govern that according to the circumstances in each case?

Mr. REYNOLDS. Yes, sir.

Mr. VREELAND. Does it lapse at present if he does not file the oath?

Mr. REYNOLDS. I do not think there has been any definite ruling on that point from the comptroller's office. I do not know of any. Am I right, Mr. Murray?

Mr. MURRAY. You are right.

Mr. REYNOLDS. They drift along with it, and they are finally made good.

Mr. VREELAND. A man of that kind could be immediately appointed to a vacancy on the board, could he not?

Mr. REYNOLDS. Yes; but the people interested in the bank want a particular man. They want his connections; they want the publicity of his name as being connected with the bank; and I think there are many reasons why it would be best to let that law stand as it is.

I do not remember the number of the section where there is a conflict in the word "president," as between the president of the association and president of the board. I think the word "board" should be stricken out and the name "association" put in. That will harmonize that.

I have a notation here, "limited liability of shareholders." I do not know that I quite gathered what the import of that objection was, or the purport of the recommendations on the subject. I think Mr. Kane made that recommendation.

Mr. MURRAY. There is one bank that was allowed to come into the system a great many years ago under a special act of Congress.

Mr. REYNOLDS. Where a state bank was converted into a national bank? Are there not two of those?

Mr. MURRAY. There is only one of them, I think.

Mr. REYNOLDS. I thought there were two. I was under the impression that the Bank of Commerce of New York and the American Exchange National Bank were both in that class. I may be wrong, though.

The CHAIRMAN. The Bank of Commerce was; but I think that is the only case. That is my recollection.

Mr. REYNOLDS. I think the law should be amended so that notice to a stockholder can be sent by mail thirty days in advance of the meeting to which he is being called, just as well as by publishing it for thirty days. As I understand the law now, the articles of association of practically all, if not all, of the national banks designate the date of their annual meeting. I do not think it is necessary under the law to send any notice for that annual meeting, providing it is held upon the date the articles of association fix for the annual meeting. Failing, however, to hold it on that date, it is now required that you publish your notice for thirty days. This change in the law will enable you to send a notice by mail the same as publishing it. I would not eliminate the right to publish it, because in some places the stockholders are so widely scattered that the banks prefer to publish the notice.

I have a memorandum here in regard to the appointment of a receiver to enforce the liability of stockholders in case of liquidation. I think that ought to be provided for. I understand that it is not now provided for.

Mr. BONYNGE. What do you mean by that? To appoint a receiver in case of voluntary liquidation?

Mr. REYNOLDS. Mr. Murray, I think, explained that yesterday, something to this effect: That a banking corporation might voluntarily vote to go into liquidation and go ahead making its dividends and winding up its affairs, and he might know nothing of it. The modification of that law, or the amendment of it, would make it necessary for him to be notified and have him participate in the liquidation of the bank. Am I not right in your theory in that regard, Mr. Murray?

Mr. MURRAY. I think the main purpose is that very often a bank votes to go into voluntary liquidation, Mr. Reynolds, and can not get enough from its assets to pay the depositors. Then the depositors appeal to the comptroller for some help, for a receiver to be appointed and the stockholders' liability enforced.

Mr. REYNOLDS. I did not quite understand that.

Mr. MURRAY. Under the law of 1876 we tell them to go into the courts; so that under the present arrangement it simply results in forcing the creditors of the bank to go into court and go through expensive litigation to enforce the stockholders' liability, and pay for it themselves.

Mr. REYNOLDS. Whereas if you had a right as comptroller to appoint a receiver in those cases you could liquidate such a bank in the ordinary course of failed banks?

Mr. MURRAY. We could liquidate them practically with little expense to the individual depositors.

Mr. REYNOLDS. I think that should be provided for.

There was some discussion here yesterday about the limit of the \$5 bills. I heard what was said, and I heard Senator Aldrich's reasons for it; and yet, being a banker in the West, and suffering as we do in the fall months for the lack of small bills, I can not quite harmonize his theory with what happens out there. And for myself, I feel that the limit of \$5 bills issued by any bank should be raised from 35 per cent—which it is now, is it not? Or one-third, I guess it is.

The CHAIRMAN. One-third.

Mr. REYNOLDS (continuing). I should say that should be raised to 50 per cent.

The CHAIRMAN. On several occasions the Secretary of the Treasury has, I think, recommended a reduction of the denomination of gold certificates to \$5, and there has been very strong pressure upon the committee along that line.

Mr. REYNOLDS. That would answer about the same purpose.

The CHAIRMAN. That would answer your purpose.

Mr. REYNOLDS. The trouble with the silver certificates is this: The Treasury Department will not give us silver certificates—at least, in the West—unless we can deposit the same kind of money. In other words, we have to deposit large silver certificates or silver dollars for them. I think I am right in that.

The CHAIRMAN. They will not let you deposit gold certificates?

Mr. REYNOLDS. Not to get silver certificates.

The CHAIRMAN. Why is that?

Assistant Secretary COOLIDGE. The inability of the Government to supply small denominations is the result of the small amount of silver dollars in the general fund of the Treasury. This condition of the silver dollars in the general fund has been for years coincident with the demand of the banks for small denominations. These, under the law, are practically confined to silver certificates, which can only be issued, in excess of the redemption, to the amount of silver dollars in the general fund. For silver certificates sent to the Treasury at Washington for redemption ones, twos, and fives can be furnished; for United States notes, fives, but for gold certificates nothing smaller than tens can be furnished. The gold certificates in circulation exceed in amount the aggregate of the United States notes and silver certificates in circulation.

The result is that the banks hold large amounts in gold certificates which from time to time they wish to exchange with the Government for fives, and as the law does not permit the issue of a \$5 gold certificate the Government is unable to comply with that demand.

The Treasury is always in such condition in regard to silver dollars and United States notes in the general fund at the time the banks especially desire small denominations of paper currency which it is

impossible to supply, without a violation of law, the demand by paying ones, twos, and fives for gold certificates, practically the only paper currency the banks have to offer for exchange.

On December 2 there were in the Treasury general fund only 275,559 silver dollars, and only \$2,991,169 in United States notes, of which \$1,008,491 was in process of redemption, leaving \$1,082,678 in ten treasury offices for the transaction of the daily business. Of the \$7,373,156 silver certificates only \$2,613,747 was available for immediate payment and this amount was distributed among the ten treasury offices; the balance, \$4,759,409, was in process of redemption. If Congress were to authorize the issue of \$5 gold certificates the trouble would disappear at once.

Mr. PADGETT. They only issue, under the law, silver certificates upon the deposit of a corresponding amount of silver, and I suppose that they interpret the issuing of \$5 certificates as equivalent to an original issue.

The CHAIRMAN. But they always have a certain amount of silver dollars in the Treasury that they can issue certificates against if they wish to.

Mr. REYNOLDS. It is not the issuing of them, Senator; it is the giving them out that troubles us.

The CHAIRMAN. That is a matter of administration, it seems to me.

Assistant Secretary COOLIDGE. The certificate represents the dollar that is put in, silver or gold.

The CHAIRMAN. It is a dollar that is there.

Assistant Secretary COOLIDGE. Yes; it is a dollar that is there.

Mr. REYNOLDS. It states the kind of a dollar, though.

The CHAIRMAN. Oh, yes; I understand that.

Mr. REYNOLDS. You can not exchange a \$1,000 gold certificate for \$5 silver certificates, because your accounts would not be correct. You would not have the proper amount of silver dollars left against your outstanding certificates.

The CHAIRMAN. Oh, yes, you can; that is a very simple matter. Why not? Suppose you have \$1,000,000 of silver dollars in the Treasury that are not covered—it is simply a matter of accounting or bookkeeping.

Mr. REYNOLDS. There is no question but what some action should be taken which will give the West and the South a larger number of \$5 bills during the crop-moving season. There is no question about that.

Senator HALE. Why not permit gold certificates to be issued of that denomination?

Mr. REYNOLDS. I have always advocated it. You know you did cut the denominations of the gold certificates down two years ago, did you not?

The CHAIRMAN. No; it was in 1907.

Mr. REYNOLDS. You have cut it down to \$10 now.

Mr. BURTON. Has anything ever been done under the law of March 4, 1907, authorizing the issue of United States notes in denominations of \$5?

Mr. REYNOLDS. I know nothing about it if it has.

Senator MONEY. The history of this matter was that the Treasurer of the United States made a recommendation that we reduce the limit of denomination of gold certificates to \$5. I made that motion myself, and it was beaten; and we compromised on reducing it to \$10. That was a year or more ago.

Mr. REYNOLDS. I think Senator Aldrich's theory is a very good one, theoretically. Your idea was to keep the silver certificates out?

The CHAIRMAN. Yes.

Mr. REYNOLDS. As a matter of fact, however, it keeps them in, in practical operation. We can not get them. The trouble with us in Chicago is that while we are shipping very large amounts of money—the banks of Chicago probably ship to the West and South during cotton and grain moving season \$100,000,000 in actual currency—still, every man that asks you for currency wants \$5, \$10, and \$20 bills. He does not want anything larger; and at certain seasons of the year it is absolutely impossible for us to get the amount of small bills that are necessary for the conduct of the business.

Mr. PADGETT. Suppose we should forbid the issue of silver certificates above \$5, and require them all to be issued in the denomination of \$5, would not that supply this need?

The CHAIRMAN. I think, Mr. Padgett, they are doing that now as fast as they can.

Mr. PADGETT. There are a great many of them being issued, I understand, in \$500 bills.

The CHAIRMAN. The banks now hold some of the large denominations of silver certificates themselves. They are held by somebody who does not bring them in. That is what we have been trying to do—to have them brought in and put into smaller denominations; but it seems hard work to do it.

Mr. PADGETT. But under the law they can be issued in larger denominations than \$5, and a great many of them are larger than \$5. If the law should require them to be put in \$5 bills altogether, then they would be turned in for redemption, and it would increase the amount of outstanding \$5 bills very largely.

Mr. REYNOLDS. There is about the same inconsistency with bankers that there is with any other class of people. Take the case of our own bank—from the 1st of January up to the 1st of August we want to have the money in our reserves in as large bills as we can put it, because it takes half a dozen vaults to hold the amount of money

that we have to carry. Consequently, during the summer months, if we do not rent almost all the vaults there are in Chicago, we start into our fall season without a sufficiently large supply of small bills. And yet this year we went into the shipping season with \$10,000,000 of bills \$20 and lower in denomination. We have had no serious trouble this year, such as we have usually had; but it is accounted for very largely by the fact that money has been so plentiful and so easy that we have not had the demands on us that we usually have. I think that is an important matter, however. I do not know what to recommend in this connection; but I think it is a matter your commission could do a great deal of good in regard to if you would take it up seriously and work out some plan through which the West can, when it needs them, get bills of smaller denominations.

Mr. WEEKS. Is there not a serious objection, Mr. Reynolds, to cutting up gold certificates into small denominations, in that it puts them into the pockets of the people and takes them away from the banks, where they should be held as reserve money? Is it not possible that the banks would have difficulty in getting reserve money if that were done?

Mr. REYNOLDS. I have not any doubt but what it would increase somewhat the amount of money carried in the pockets of the people. It is a good deal, though, like the case of eating your cake and having it too—it is difficult to know which is the better.

Mr. WEEKS. But the people do not care, as a matter of fact, whether they have a silver certificate or a national-bank note, if they can redeem it in gold?

Mr. REYNOLDS. Not at all.

Mr. WEEKS. And if you let your gold certificates go out you may have a serious dearth of money.

Mr. REYNOLDS. I think the simplest way, as I suggested, would be to increase the national-bank note limit to 50 per cent. There may be some reasons why that should not be done that I am not familiar with; but you gentlemen on the Monetary Commission know a great deal more about those things than I do. I can not see any reason; and that would not disturb your present law with reference to gold or silver certificates and would give the western banks a very considerably larger amount of small bills.

The CHAIRMAN. We authorized the Secretary of the Treasury to issue \$5 United States notes.

Mr. BURTON. That was the act of March 4, 1907—ones, twos, and fives.

The CHAIRMAN. Yes; ones, twos, and fives; so that the Secretary has absolute power in that matter now.

Mr. REYNOLDS. You must not lose sight of the fact that we in the West who deal with the Secretary of the Treasury have to go to an

office building out there and discuss these matters with somebody who has absolutely no authority or power whatever. Everything that we do must be submitted, and it must be submitted through them; and it is difficult, sometimes, within the period of time in which they need this money, to accomplish anything. I think the Secretary of the Treasury and the United States Treasurer have always been inclined to do everything they could to help, in view of the existence of the present laws; and personally I have no criticism to make of the department in any way whatever. But we do bump into these laws occasionally, and they show us why they can not give us this, that, or the other thing that they do possess.

The CHAIRMAN. I think there is nothing in the law which would prevent the Treasury from giving you \$5 bills to any extent that is necessary.

Mr. REYNOLDS. Senator, if I had \$10,000,000 of large gold certificates and I should present them to the Secretary of the Treasury and ask for \$5 silver certificates——

The CHAIRMAN. He could give you United States notes if he could not give you silver certificates?

Mr. REYNOLDS. Yes; he could do that; but you could not send silver certificates out against your gold certificates and have your records correct.

The CHAIRMAN. That is simply a matter of bookkeeping, if he had the silver dollars in the Treasury uncovered.

Mr. REYNOLDS. If they have them, of course——

The CHAIRMAN. I am supposing that they have. They have a certain amount of silver dollars uncovered all the time in the Treasury, and it would be a simple matter if they had the silver dollars there.

Mr. REYNOLDS. There are other gentlemen here representing banks that you have invited to be present, and I feel that I have taken all the time I should; and I will be glad to give way to Mr. Porter, who represents another committee of bankers.

The CHAIRMAN. We will hear Mr. Porter, then, if that is all you have to say.

#### **STATEMENT OF MR. WILLIAM H. PORTER, PRESIDENT OF THE CHEMICAL NATIONAL BANK, NEW YORK CITY, N. Y.**

Mr. PORTER. Senator Aldrich and gentlemen of the commission, of the seven gentlemen representing conservative banks in the various parts of the country whom you invited to be at this hearing three were unable to be present—one on account of sickness, and two for other unavoidable reasons. But there are present Mr. Thomas P. Beal, president of the Second National Bank of Boston; Mr. Ernest A. Hamill, president of the Corn Exchange National Bank of Chi-

cago; Mr. Edward F. Swinney, president of the First National Bank of Kansas City, Mo., and myself.

We attended the session yesterday, and listened with a great deal of interest. We felt that in considering matters and discussing them we should get together in a measure and form some organization. It was deemed expedient to appoint a chairman of our little committee, and my associates accorded that honor to me.

We have held two meetings, and carefully considered the recommendations of the Secretary of the Treasury and the comptroller and his deputy, and I will give you very briefly (for I presume that is what you want) the conclusions we have reached. I have taken them up in just about the same order that Mr. Reynolds has, the first matter being the compensation of examiners.

We are of the opinion that the present system, with some modifications, would be better than to attempt to go on a salary basis; that is, if the examiners in the interior could retain their present fees (which are very small) and receive a percentage fee on the assets of the bank which they examine, such as is now permitted in the discretion of the Secretary and the comptroller to banks in the central reserve cities and the reserve cities, we think that would deal with the matter more equitably, and would bring about the desired improvement in examinations through the comptroller's authority.

In that connection something was said about requiring bonds from examiners. As a general proposition we favor that; but I should like to ask the comptroller this question: Whether he would be hampered in a bank examiner's taking charge of a failed bank as its temporary receiver, or whether he would have to give a receiver's bond also? If so, he could not take charge as receiver until he had filed his bond and it had been accepted, I assume; and, as we understand it, the object of appointing a national-bank examiner as temporary receiver is to take immediate possession and preserve the status quo until the permanent receiver is installed.

**Mr. MURRAY.** When I became comptroller I found that the examiners never had even been required to take an oath of office nor to give a bond. I asked the Department of Justice if I had authority to require an oath of office from bank examiners; and the Attorney-General gave me an opinion that I had such authority. So they have all executed an oath of office prescribed by the Department of Justice. I fully agree that every one of them should be bonded in a reasonable amount. That has never been done. The result is that they are handling vast sums of money in very confidential relations to the banks and to the public without being bonded; nor until recently, within a couple of weeks, was there even an oath of office filed. They often take charge of a bank with millions of assets when it is insolvent and handle it until they wind it up, in some cases, or until another

receiver is appointed; and there is no bond filed. I think that is a situation that ought to be remedied at once.

Mr. BONYNGE. Mr. Comptroller, do you mean to give a bond in a specific case or at the time of the appointment of the examiner?

Mr. MURRAY. At the time of his appointment.

Mr. BONYNGE. You mean to require the giving of a bond at that time?

Mr. MURRAY. I think a bond of \$20,000 or \$25,000 would be reasonable, and it should not be lower than that, at least.

Mr. BONYNGE. That bond to be given at the time of his appointment?

Mr. MURRAY. At the time of his appointment.

Senator KNOX. The situation suggested by the witness is very easily covered. As I understand, the question is, Would the general bond given by the examiner cover the temporary receivership of a national bank? That could be provided by the statute saying that it shall cover any duty that he may be called upon to perform as an examiner, including a receivership; and then the statute might have a provision that the comptroller could call upon him for an additional bond under any circumstances. If he happened to take charge of a very unusually large bank and handled a great deal of money, he could call on him to increase his bond. But his general bond could be drawn in such a way as to cover any duty that he might be assigned to, including this receivership.

Mr. MURRAY. I think that would meet it.

Mr. PORTER. We would recommend that.

Senator MONEY. That does not require any legislation.

Senator KNOX. Oh, yes; I think it would require legislation to put him under a bond.

Mr. BONYNGE. The bond would not be of much account unless there was legislation authorizing it.

Senator MONEY. The comptroller is doing that now, he says.

Senator KNOX. No; they have no bond. They put them under oath now.

Mr. PORTER. Regarding the matter of the appointment of deputy Comptrollers of the Currency, we fully concur in the recommendations of the comptroller; and we are of the opinion that the comptroller's salary should also be substantially increased and that the deputies' salaries should also be increased.

Regarding the appointment of examiners, we favor the continuation of the present method and believe they should be appointed solely on the basis of efficiency.

We do not recommend that the comptroller be given discretion to limit the lines of discount of commercial paper where directors

approve the loans within the present legal limitations. I do not think I need enlarge upon that; it has been pretty fully discussed.

Mr. BURTON. Will you kindly repeat that? I did not grasp it entirely.

Mr. PORTER. We do not recommend that the comptroller be given discretion to limit the lines of discount of commercial paper (by that I mean trade bills receivable and, in the generally accepted sense, commercial paper) where the directors of a bank approve the loans within the present legal limitations.

Mr. VREELAND. Do you recommend anywhere any method by which the directors shall approve the loans made?

Mr. PORTER. No. I do not think you can legislate for the various kinds of banks that we have. That is one of the greatest difficulties of this situation—that the comptroller does not have power to discriminate. I think that should be left to the directors of the bank.

Mr. VREELAND. What I was asking was, Do you suggest any method of knowing that the directors perform this duty? It seems to be admitted that somebody ought to supervise it.

Mr. PORTER. Yes; I favor the bank examiner seeing that the directors attend meetings and are generally conversant with the affairs of the bank so far as practicable.

I want to add to what I said that we think the examiner might well call the attention of the directors of a bank to lines of discount which the examiner considers too large.

In the matter of impairment of capital, we think that a reasonable time should be given to stockholders to make payments of assessments. Some of them may be abroad; others may have to sell real estate or obtain loans or do various things in order to pay assessments, and our idea is that a maximum time of sixty days will be sufficient.

Regarding loans to officers of banks, that is another matter wherein conditions differ entirely between the large cities and the small country towns. As a general proposition, we would recommend the prohibition of loans to the active, salaried officers of the banks, with the possible exception that where well-known and quickly salable collaterals are furnished such loans might be made, in the discretion of the board and with their approval.

Mr. VREELAND. Could a distinction be made there between different classes of cities, and could you say that in the central reserve cities it should apply, or some classes should be established according to population?

Mr. PORTER. It is possible, but I should think it was almost impracticable.

Senator KNOX. Would not your exception there cover the principal difficulty there is? If you made an exception in favor of loaning officers money on quickly convertible collateral, is not that simply another

way of saying that you can lend them money on stocks and bonds that are listed in the markets? And has not that been the source of most of the difficulty in lending money to officers of a bank—that they have speculated it away in operations in stocks and bonds?

Mr. PORTER. I think you are right about that. Of course the directors would have to determine upon that matter as to whether or not it was a proper loan for the bank to make.

We do not recommend any change of the present condition regarding loans to directors, except that they should be approved by the board or by an executive committee. Some of the best and most valued depositors and directors of banks, especially in the smaller places, are, as has been said, the leading business men, and it would be a great mistake to crowd them out.

We concur in the comptroller's recommendation for duplicate statements of condition to be sent to him.

We also recommend that examiners report to the directors the criticisms which they propose to make upon the condition of the bank.

We do not favor the publication of the total amount of liabilities of directors.

In the matter of false reports, we approve the recommendation of the comptroller that the law should be made clear.

In the matter of signing national-bank notes, we approve of an amendment to the law authorizing assistant cashiers to sign national-bank notes.

In the matter of liabilities of corporations for an assessment upon national-bank stock held by them, we can see no objection to a federal statute requiring all stockholders, including corporations of any State, to be subject to the payment of assessments. That was gone over pretty thoroughly yesterday; and as was then brought out, the law could not be retroactive.

Regarding the 5 per cent redemption-fund delinquencies, we would recommend a fine of a fixed amount, either \$50 or \$100, for each day after five or ten days after the bank had received notice from the Treasurer of the United States; or, say, fifteen days after the mailing of such notice. That would probably lead to disputes as to whether a notice had ever been mailed; but the officers would have to take care of that.

In the matter of directors residing in the same State in which the bank is located, we would recommend that a majority of the directors would suffice for that purpose.

In the matter of the increase of capital stock, we approve the comptroller's recommendation that the stockholders determine by vote the price at which the stock shall be sold and that all stockholders should be required to pay the same price.

We do not recommend declaring directorships vacant so soon as in thirty days. Let me give you an instance in my own experience, about two years ago. The largest stockholder in our bank, and one of our directors, went on a trip around the world. We forwarded the oath of office, and it reached him at Colombo, in the island of Ceylon. We got it back during the latter part of April and filed it with the comptroller about the 1st of May. It was a physical impossibility to do it any sooner. And the other reasons have been stated, such as sickness, etc.

In the matter of the "president of the board," we can see no objection to the comptroller's recommendation that the word "board" be changed to the word "association."

In the matter of the right of stockholders to vote upon stock not fully paid up, which is our understanding of the meaning of the term "unpaid liability of stockholder to the association," we think the intent of the statute should be made clear by a small amendment there.

In the matter of the statute of limitations running against stockholders for the payment of assessments, the comptroller recommends six years. If that is necessary, we would approve it; but we should think that an action would naturally be brought within two or three years at the latest after an assessment had been levied. I do not know what the experience of the comptroller's office is in that connection.

In the matter of the transfer of stock to avoid liability, we can see no objection whatever to the enactment of a statute such as the comptroller recommends.

I should like to ask, for my own information, upon whom the burden of proof would be as to the intent of a man to evade liability in transferring his stock? Perhaps Senator Knox could answer that.

Senator KNOX. It has always been held that it was upon the person alleging that the transfer was made in bad faith. He would have to prove that.

Mr. PORTER. That would be the receiver of the bank.

Senator KNOX. Prima facie, the transfer carries the title and imports good faith, and anyone who challenges it would have the burden placed upon him. That has been the rule in all cases.

Mr. PORTER. I should suppose that would be the case.

In the matter of the payment of capital stock we can see no objection to the comptroller's recommendation for an amendment to the existing statute, section 5142.

In the matter of reduction of capital stock to avoid assessment, we think that subsequent collections upon charged-off assets should follow the stock and be credited to the bank's profit and loss account.

In the matter of organizing and chartering national banks, section 5169, we concur in the comptroller's recommendation.

We make the same recommendation regarding voluntary liquidation, section 5220.

We make the same recommendation respecting notices to stockholders being sent by mail as well as by publication, or either.

The same recommendation regarding the appointment of receivers to enforce liability of shareholders of banks in liquidation.

The same recommendation respecting the minimum deposit of bonds to secure circulation, to make the intent of that act clear.

The same recommendation respecting the custody of plates and dies.

The same recommendation as the comptroller regarding the declaration of dividends annually or at other periods.

Regarding the matter of \$5 notes, personally I would remove that limitation altogether. With the growth of population in this country we have got to have an increase in the small denominations of notes—ones and twos, as well as fives. I can not recall a time in the last ten years in my experience when we could get all of the small notes that we needed for the transaction of business. The population is, of course, increasing right along. The issue of silver certificates is not. And I should like to further recommend that you gentlemen who provide the appropriations for the public expenses provide such small amount of money as is needed to print all the small notes we need, and give authority to cancel thousand-dollar bills, or large bills for which we have no use, and issue small ones in the place of them. Possibly you have done that in the recent law.

The CHAIRMAN. They have that authority.

Mr. PORTER. That has been the trouble up to the last few years, anyway, when I had to do with that part of the business—that we never could get enough small notes.

Senator DANIEL. There are \$7,000,000 of silver certificates in the Treasury. Mr. Padgett suggested that we do not know what denominations they are. Here is a little statement that shows the denominations.

The CHAIRMAN. It does not show the denominations of the silver certificates in the Treasury.

Senator DANIEL. No; it shows the denominations of the outstanding silver certificates.

Mr. PORTER. The situation in New York is just the same as Mr. Reynolds described it to be in Chicago from time to time—that is, you can not go to the subtreasury and get small silver certificates unless you turn in large silver certificates in exchange. We do not have the large silver certificates.

Mr. WEEKS. There are only \$56,000,000 out of \$488,000,000 of silver certificates that are not now in ones, twos, and fives.

The CHAIRMAN. We have very nearly accomplished the purpose we had in view, then.

Mr. PORTER. You certainly have.

Mr. PADGETT. I should like to ask Mr. Porter a question. Do you think that the growth of the business of the country is sufficient to employ all of the silver certificates and this additional amount of bank notes should that limitation be removed?

Mr. PORTER. Do you mean if banks were permitted to issue all of their notes in whatever denominations they thought best suited to their business?

Mr. PADGETT. Yes, sir.

Mr. PORTER. I do.

Mr. PADGETT. That is what I want to find out.

Senator MONEY. Mr. Porter, I want to ask you a question, which you need not answer if you prefer not to, because it is not exactly pertinent to the matter here; but I have had a curiosity for a great many years to ascertain about it. My understanding has always been that yours was about the richest bank in the world.

Mr. PORTER. I wish we were.

Senator MONEY. And also that you have never issued any currency.

Mr. PORTER. The Chemical Bank never issued any *national-bank* notes until last fall.

Senator MONEY. You have issued some, then?

Mr. PORTER. We did last fall, because we had increased our capital under the amendment to the act.

Senator MONEY. What is your capital now?

Mr. PORTER. Three million dollars.

Senator MONEY. So your objection to issuing them before was simply—

Mr. PORTER. The capital was small. (I have only been in the Chemical Bank ten years, so that I can speak from the standpoint of an outsider.) The Chemical Bank made its great reputation during the panic of 1857, and during the war, in always paying gold when every other bank in the United States (with the possible exception of one in Pittsburg, I believe) did not do so.

Senator KNOX. That was one of which my father was cashier. It always redeemed in gold, even when it was at a premium.

Mr. PORTER. The Chemical Bank paid gold. National-bank notes, of course, were not redeemable in gold specifically; and the capital of the bank being only \$300,000, the directors of the bank at that time concluded that they would not issue any notes, and they never did until the autumn of 1907, when our larger capital enabled us to issue

a substantial amount of circulating notes, in a panic and currency famine, and thus assist in relieving the situation.

Senator MONEY. Do you issue notes now to the limit?

Mr. PORTER. We would if occasion required. There is a loss in circulation at the moment, from our point of view, owing to the tax it bears.

Senator MONEY. You do not issue, then, the full amount?

Mr. PORTER. Not now. The banks in the larger cities try to observe the principles of elasticity which everybody would like to get into the currency. That is, when money is redundant, they retire their circulation; and when they need it again they take it out again. If that limitation of \$9,000,000 a month was not there, it would afford a great deal more elasticity, in my opinion.

The CHAIRMAN. Mr. Porter, referring to the denomination of the bills, is it not true that at certain seasons of the year there is a scarcity of small bills, as Mr. Reynolds has said, and that at other seasons of the year there is a great redundancy? In other words, at some seasons of the year you would like to have more \$5 bills and at other seasons of the year they would be a great nuisance to you?

Mr. PORTER. We do not have such a great redundancy of small bills in New York.

Mr. WEEKS. Mr. Chairman, here are some interesting figures in connection with that matter. The national-bank circulation is \$667,000,000. That would enable the banks to take out \$222,000,000 in \$5 bills. As a matter of fact, there are only \$131,000,000 outstanding in \$5 bills now; so that the banks could take out \$90,000,000 more if they were equally distributed. They could do that to-day.

The CHAIRMAN. They have never been up to the limit.

Senator MONEY. Does it not seem to you that the banks might just as well avail themselves of the law and issue some of these small bills themselves, instead of coming here and wanting us to provide some other way of getting this small money?

Mr. PORTER. The national banks used to issue ones and twos, but that privilege was taken away from them.

Senator MONEY. But there are ninety millions that they could issue that they have not issued.

Mr. PORTER. Of fives?

Senator MONEY. Yes.

Mr. PORTER. That is a showing of recent date, is it not?

Mr. WEEKS. The 20th of November.

The CHAIRMAN. It has been more than that. That is the smallest amount of deficiency, I think, that there has ever been.

Mr. PORTER. The banks in New York have been retiring circulation lately, right along.

Mr. WEEKS. This statement is only four days old.

Mr. PORTER. The small bills naturally get the most use, and therefore being in the worst condition, they are the ones first turned in for destruction and redemption. At this time of the year, when currency begins to flow back, and we get a large amount of small bills in very poor shape, we naturally run them right into the Treasury for redemption.

Senator MONEY. That is redemptions; but you expect to get that back in small bills. You do not run them in to be redeemed at all, but simply to get small bills in exchange for them.

Mr. PORTER. What I mean is that we have very large payments to make to the subtreasury in New York for various purposes. We use our money that is unfit for circulation, which comes in by express every day, just as far as possible to make those payments, and get rid of it in that way. That takes the small notes in very largely after the crop movement in the fall of the year.

Mr. PADGETT. If you do not retire them, but simply send them in as a payment, does not the Treasury pay them out again?

Mr. PORTER. They may not issue the same denominations in their place. They are not obliged to do so, as I understand it.

Mr. PADGETT. I know they may not; but they pay the same amount of money out—an equivalent amount of money.

Mr. POTTER. In paying the government expenses?

Mr. PADGETT. Yes.

Mr. PORTER. Undoubtedly.

Mr. PADGETT. In order to reduce the circulation, you must send them in for retirement.

Mr. PORTER. You are referring to national-bank notes, are you not?

Mr. PADGETT. National-bank notes; that is what I am speaking of.

Mr. PORTER. I am referring more especially to the small bills—ones and twos.

Mr. PADGETT. Yes; but I was speaking about reducing the circulation.

Mr. PORTER. Oh, yes.

Senator DANIEL. Mr. Porter, I observe in the statement of the Treasury as to paper currency of each denomination outstanding November 30 that there are \$121,000,000 (in round numbers) of \$1 silver certificates, \$58,000,000 of \$2 silver certificates, \$251,000,000 of \$5 silver certificates, \$32,000,000 of \$10 silver certificates, \$13,000,000 of \$20 silver certificates, \$9,000,000 of \$50 silver certificates, \$747,000 of \$100 silver certificates, \$28,500 of \$500 silver certificates, and \$38,000 of \$1,000 silver certificates. Those are the denominations of the silver-certificate currency. What are the limitations as to the convertibility of these bodies of currency into \$1 and \$2 bills?

Mr. PORTER. As Senator Aldrich remarked, it is a good deal a matter of bookkeeping. We may have two kinds of ones and twos—silver certificates and legal-tender notes.

Senator DANIEL. Yes; but if you want to get, now, so much of \$1 or \$2 or \$5 silver currency, what is the difficulty in your getting it? The difficulty would lie in the convertibility into that denomination. In all there are \$480,000,000 of silver certificates outstanding.

Mr. PORTER. Senator Daniel, it makes no difference to us which class of money we get when we want small bills.

Senator DANIEL. No.

Mr. PORTER. We are glad to get anything.

Senator DANIEL. I know that from experience, which has been related to me about our own bank.

Mr. PORTER. We have a great deal of difficulty at times in getting small bills—ones and twos—of either class.

Senator DANIEL. I know that.

Mr. PORTER. And we frequently send down to the subtreasury to get some small silver certificates, and inadvertently the teller may send some large legal-tender notes or large gold certificates; and they refuse to accept them, and tell us they are obliged to have silver certificates.

Senator DANIEL. What is the difficulty in your sending to the Treasury?

Mr. PORTER. The subtreasury in New York?

Senator DANIEL. No; not the subtreasury in New York; the Treasury in Washington. What I am trying to do is, primarily, to get at the best method.

Mr. PORTER. The Treasury in Washington furnishes the subtreasury in New York with its supply, and the banks go there for their supplies.

Senator DANIEL. To be sure.

Mr. PORTER. The same as they do in Chicago in the case of their subtreasury.

Senator DANIEL. What is the difficulty in the subtreasury there getting such denominations as you want here? I am looking for a statement of the law on the subject, because I have not got it before me.

Mr. PORTER. We would naturally assume that if we could not get them from the subtreasury in New York we could not get them in Washington. We would naturally not try to get them here if we were refused there.

Senator DANIEL. What I am trying to do is to find what are the limitations of law as to the convertibility of silver certificates into smaller denominations that they may exist in?

The CHAIRMAN. Perhaps I had better read the law.

Senator DANIEL. Yes.

Mr. PORTER. Yes; I do not recall the exact text of the law.

The CHAIRMAN. That act of 1900 provides that as fast as silver certificates of large denominations come in they shall be reissued in denominations of ten dollars and less, and the act of March 4, 1907, provides:

“ Whenever \* \* \* the outstanding silver certificates \* \* \* of one dollar, two dollars, and five dollars \* \* \* shall be, in the opinion of the Secretary of the Treasury, insufficient to meet the public demand therefor”—

That is, when he has no ones, twos, and fives of silver certificates—

“ He is hereby authorized to issue United States notes of the denominations of one dollar, two dollars, and five dollars, and upon the issue of United States notes of such denominations an equal amount of United States notes of higher denominations shall be retired and canceled.”

I think the Secretary of the Treasury has issued no ones, twos, and fives of United States notes.

Senator DANIEL. But they could do it?

The CHAIRMAN. They can do it any day if there is a demand and if they choose to do it. There was in the Treasury on the 1st of December about four millions of United States notes, for which they could have issued ones, twos, and fives.

Mr. MURRAY. That would not go very far.

Mr. GEORGE M. REYNOLDS. Mr. Chairman, may I ask a question?

The CHAIRMAN. Certainly.

Mr. REYNOLDS. Do I understand, Mr. Chairman, that if we in Chicago were to turn in a thousand-dollar gold certificate or a thousand-dollar silver certificate under that law the Secretary of the Treasury would have a right to authorize the issue of treasury notes to that extent?

The CHAIRMAN. He would have a right to authorize the issue of United States notes to that extent and then retire an equal amount of large United States notes.

Mr. REYNOLDS. Then it seems to me that you can solve that problem very easily. The trouble now is not so much a question of size. If you take our banks in Chicago, we have no silver certificates, we have no silver dollars to spare. We have lots of gold certificates and large United States notes. But since the law will not allow them to give us any money except of the same kind that we deposit, we have not anything to get them with, and it makes no difference if you do cut them up and put them in the Treasury.

Senator HALE. We discussed that matter, you will remember, in the committee; and our object was to meet precisely this difficulty.

The CHAIRMAN. Certainly.

Senator HALE. That when a gold certificate was outstanding, the Secretary of the Treasury could not direct small notes (ones, twos, and fives) to be issued to meet the emergency and retire the large corresponding United States notes.

The CHAIRMAN. That is it exactly.

Senator HALE. And we supposed that it would operate in such a way that these issues of small bills would be increasing from year to year, and would cover this very difficulty.

Mr. REYNOLDS. I do not think I understand you, then; because if he is going to issue these small treasury notes—

The CHAIRMAN. United States notes.

Mr. REYNOLDS (continuing). United States notes, by reducing the large notes now outstanding, how are you going to exchange gold certificates of a thousand dollars for those?

The CHAIRMAN. They can attend to that in the Treasury. That is a matter of bookkeeping.

Mr. BURTON. There is no necessary relation between the presentation of the thousand-dollar bills, you know, and the issuing of the others. Naturally, they would be printed beforehand, so as to be ready at a time when there was a demand for small bills.

Mr. REYNOLDS. I know; but if I deliver a thousand-dollar note, I am entitled, under the law, to a thousand dollars in gold.

The CHAIRMAN. That is true.

Mr. REYNOLDS. If I do not take that gold (and almost everybody does not), the result is that the Treasury Department will have a thousand dollars of gold securing a thousand dollars of these additional treasury notes.

The CHAIRMAN. The Treasury is just like a bank. If a man comes into your bank with a hundred-dollar national-bank note and asks you to change it for a hundred dollars in silver certificates or a hundred dollars in gold certificates or a hundred dollars in gold you do not have to go through any formality or elaborate entries to make the exchange for him.

Mr. REYNOLDS. I wish you would impress that upon the office of the Secretary of the Treasury, through his representative here.

The CHAIRMAN. The Treasury is for this purpose—a great bank of exchange. They are not required by law to hold any particular form of money in the general fund of the Treasury. They hold United States notes, and they hold national-bank notes, and they hold silver certificates, and they are all interchangeable at the request of the public.

Assistant Secretary COOLIDGE. Just at the present time we have very little money of any kind in the Treasury.

The CHAIRMAN. That may be; but I am talking about what you could do if you had it. If you have no notes you can not make the exchange, of course.

Mr. REYNOLDS. We have always been met by the statement on the part of the subtreasury that they could only give us back the same kind of money that we deposited.

The CHAIRMAN. There is not any law that requires that response.

Senator MONEY. It is just the reverse.

The CHAIRMAN. The Treasury Department is not, in my judgment, performing its functions properly when it does not furnish to the public notes as authorized by law.

Senator DANIEL. They should be made to do it.

The CHAIRMAN. Yes; there should be no question.

Senator MONEY. Mr. Porter, I should like to ask you another question. Do you care, as a banker, what kind of paper you get when you want, for instance, small notes that are necessary in your business—ones, twos, and fives? You do not really care whether they are silver certificates, gold certificates, Treasury notes, or what not, do you?

Mr. PORTER. No; because the reason we want them is that we are going to pay them right out. We have a demand for them.

Senator MONEY. They always pass just the same, and it does not make a bit of difference?

Mr. PORTER. Not a particle.

Senator MONEY. It does not matter what kind of money it is or what it is redeemable in; it is in order for everything, and one is just like the other?

Mr. PORTER. Yes, sir.

Mr. WEEKS. I would like to ask Mr. Porter one question about circulation.

The CHAIRMAN. Certainly.

Mr. WEEKS. You remember that Congress in 1906 raised the amount that could be loaned to one customer from 10 per cent of the capital to 10 per cent of the capital and surplus, do you not?

Mr. PORTER. Yes, sir.

Mr. WEEKS. At that time it was urged that if 10 per cent of their capital would not enable them to loan to one customer what he needed the banks should increase their capital.

Mr. PORTER. Yes.

Mr. WEEKS. That has been urged at other times. Do you think there should be any relation established between the capital of a bank and its deposits?

Mr. PORTER. Do you mean any restriction as to the amount of deposits in proportion to capital?

Mr. WEEKS. Yes.

Mr. PORTER. No; I do not. I think that is a matter that will take care of itself in public opinion.

Mr. BEAL. If I understood Mr. Reynolds's question, I think one point should be made a little more clear. I understood him to ask, if he presented at the subtreasury a thousand-dollar gold certificate, whether he would receive in exchange small United States legal-tender notes. I think the answer was "Yes;" but I assume that meant only provided there are on hand previously in the United States Treasury those small legal-tender notes.

The CHAIRMAN. I take it for granted that the Treasury Department has United States notes in its possession somewhere, and, having the plain provision of the statute before them, could use them for exchange.

Mr. PADGETT. But suppose they are in the banks—that the banks have them in reserve? There is a fixed amount—three hundred and forty-six millions—of United States notes that are outstanding. The banks keep them largely as reserve money. Suppose all of that sum is outstanding in banks in reserve and the Treasury has not got it. Therefore they could not, upon the presentation of the thousand-dollar gold certificate, issue United States notes, because the limit is already outstanding in the banks.

The CHAIRMAN. I think you are mistaken about the construction of the law; but you are supposing an impossible thing.

Mr. PADGETT. It might be an impossible thing, of course.

The CHAIRMAN. But I think you are wrong in the construction of the law, because it says that they shall issue 1's and 2's and 5's and retire notes of a larger denomination. They can not retire them until other notes are issued.

Mr. PADGETT. How would they retire them if they were in the banks?

The CHAIRMAN. They could, of course, only retire them when they were presented to the Treasury Department.

Mr. PADGETT. They could not have them both outstanding at the same time.

The CHAIRMAN. It is impossible, in the first place, that all the United States notes should be in the possession of the banks. It never has been the case.

Mr. PADGETT. But the amount of them is down to about four millions now.

The CHAIRMAN. That amount of four millions is constantly being renewed and paid out. They keep paying them out and taking them in.

Mr. PADGETT. I mean, just assume for the purposes of the construction that the three hundred and forty-six millions were all in the banks—then the Treasury could not issue the small notes in exchange

for the gold certificates, because if it did it would increase the amount of the United States Treasury notes beyond the amount now authorized by law.

The CHAIRMAN. Mr. Vreeland suggests that the United States Treasury, if it were bankrupt and had no money of any kind, could not make any exchange. That is certain. But I hope we are not likely to have to meet that contingency.

Senator MONEY. Mr. Chairman, I do not think that is the point Mr. Padgett means at all. Mr. Padgett's supposition is that these larger United States Treasury notes are being held by the banks as money of reserve, because of their size, and because they are lawful money.

Mr. PADGETT. Yes; it is not a question of insolvency. The Treasury might have fifty millions of silver and it might have fifty millions of gold, and yet it could not issue Treasury notes, because the banks might have the whole issue of Treasury notes.

Senator MONEY. Exactly—holding them in their reserves.

Mr. PADGETT. Holding them in their reserves. Therefore they would have to issue something else, and they could only issue silver certificates. They can not issue silver certificates in exchange for gold certificates; they can only issue them in exchange for silver certificates.

Senator MONEY. Here is the point, it seems to me—that the United States can not issue ones, twos, and fives of the legal-tender notes—

The CHAIRMAN. In excess of three hundred and forty-six millions.

Senator MONEY. Well, that is granted; but, I say, they can not issue any more of these small notes except to retire larger notes.

The CHAIRMAN. Yes; that is true.

Senator MONEY. The point Mr. Padgett makes is that those larger notes are almost universally held as reserve money, because they are what they call lawful money.

Mr. PADGETT. Yes.

Senator MONEY. And because of their size those large notes are convenient for holding as reserve.

The CHAIRMAN. The national banking act was passed forty-four years ago; and there never has been a time from that time up to the present moment when the United States Treasury did not have some amount of United States notes on hand. They have four millions now, which is a very small amount. Of course, if the suppositions that Mr. Padgett makes were correct, then they could not make the exchange. If a man has no money he can not pay it out; and that is as true of the Treasury as of a private individual.

Mr. PADGETT. But he would not be bankrupt. He might have plenty of other kinds of money, but he would not have that kind of money which he could issue in ones and twos.

The CHAIRMAN. I used the word bankrupt in the sense of bankrupt for present payment or exchange.

Mr. PADGETT. I do not mean bankrupt for present payment, for he might tender gold or he might tender silver certificates.

The CHAIRMAN. That is a condition that, in my judgment, will never arise.

Senator MONEY. Mr. Chairman, I do not think it is impractical. Excuse me for differing with you at all about it. I do not know much about business, but here is the case presented by Mr. Padgett: The United States is not redeeming these notes, and, moreover, it is not paying a debt. It is simply exchanging small notes for large ones to accommodate the banks, which are, in turn, accommodating the people and the business of the country. Now, then, this being lawful money, and therefore the sort held in reserve by banks, and the notes being of a large denomination, and being also, we might possibly say, reserve money, there might, consequently, be an abundance of the gold certificates, silver certificates, silver dollars, gold coin, and gold in bullion to be coined, and all that sort of thing, in the Treasury, and the United States would not be called upon to pay a debt, but simply to exchange money demanded by the business of the country for larger notes that are only held as reserve fund. That is the situation Mr. Padgett presents.

The CHAIRMAN. Mr. Money, there are \$4,000,000 of those notes in the Treasury to-day.

Senator MONEY. I know there are.

The CHAIRMAN. But if the banks desire these notes, these small denominations (ones, twos, and fives), in United States notes, and they are, as has been assumed, the holders of all the United States notes that are outstanding, then all they have to do is to take part of their holdings and send them to the Treasury for exchange.

Senator MONEY. Of course. That is correct. That is true. There is no doubt about that.

Mr. PADGETT. But the question that was stated originally was this: If he sent in gold certificates, how would he get the smaller money for them?

The CHAIRMAN. He would get them if they had the money in the Treasury to make the exchange.

Mr. REYNOLDS. Mr. Chairman, I think the difficulty with all this question of small bills (the very question you have under discussion) has been accentuated very materially during the past two or three years by a more strict insistence by the Comptroller of the Currency that national-bank notes should be separated from the ordinary moneys and not be counted as reserve. It has been the practice of banks throughout the country (except, perhaps, in one or two of the large cities) for a long time to allow their mixed currency

to accumulate; and it has been counted as reserve with a great many national-bank notes in it. Now, as a matter of fact, the comptroller's office is ruling that national-bank notes must be sorted out every day from all the rest of your money.

The CHAIRMAN. Very properly, I think.

Mr. REYNOLDS. Properly so, because it is the law. On the other hand, the enforcement of that law makes it more difficult for banks to keep up their reserve in lawful money. Consequently, they are forced to hoard these various certificates that you say can be exchanged, because if they keep the national-bank notes to-day and give up a million dollars of thousand-dollar Treasury notes, the minute they give them up and pay them out over the counter they have impaired their reserve; whereas they are sworn to obey the law and properly administer their banks and maintain a certain reserve. That is the difficulty of the whole problem. There are those people who believe that the insistence of the law that a national-bank note shall not be counted as a reserve is wrong. Of course, theoretically, it seems very strange that anyone should suggest that an obligation of a bank should in turn be counted by that bank as a reserve for deposits. And yet if a Treasury note (which has no security back of it other than the Government's agreement to pay) is a legal reserve, it seems to me that a national-bank note (which has the guaranty of the Government in quite as strong a form and has the Government's bonds back of it in addition) might properly be used. And even if it should not be used as a reserve they might at least be a little more liberal.

Senator TELLER. Why should it not be used, Mr. Reynolds, as a reserve? Why should we not change the law?

Mr. REYNOLDS. That is a pretty big question.

The CHAIRMAN. I think we shall have to postpone that until after lunch.

Senator MONEY. Generally, however, I want to say that Mr. Padgett's difficulty is not a theoretical but a real one.

Senator DANIEL. Suppose you had provided in section 2 of this act of 1907—perhaps I had better read it to you.

Mr. PORTER. If you please.

Senator DANIEL (reads):

"That whenever and so long as the outstanding silver certificates of the denominations of one dollar, two dollars, and five dollars, issued under the provisions of section seven of an act entitled 'An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes,' approved March fourteenth, nineteen hundred, shall be, in the opinion of the Secretary of the Treasury, insufficient to meet the public demand therefor, he is hereby authorized to issue United States notes of the denominations of one

dollar, two dollars, and five dollars, and upon the issue of United States notes of such denominations an equal amount of United States notes of higher denominations shall be retired and canceled: *Provided, however,* That the aggregate amount of United States notes at any time outstanding shall remain as at present fixed by law: *And provided further,* That nothing in this act shall be construed as affecting the right of any national bank to issue one-third in amount of its circulating notes of the denomination of five dollars, as now provided by law."

Suppose, after the words here where it requires the cancellation of an equal amount of United States notes when the ones, twos, and fives are issued, it were provided: "Or if a silver certificate be presented of a larger denomination than —— dollars, it may be reissued in such smaller denominations of one, two, or five dollars, as may be desired, and itself canceled?"

Mr. PADGETT. That can be done now. You do not need any law for that; it can be done now.

The CHAIRMAN. Another act, the act of 1900, provides for that.

Senator DANIEL. That being the case, you have the matter in your own hands now.

Mr. PORTER. That is exactly what I spoke of—that in order to obtain the smaller silver certificates at the subtreasury at New York very often we are told that we must turn in large silver certificates for exchange.

The CHAIRMAN. They would like to get them in, of course. That is what they are trying to do all the time.

Senator DANIEL. It is a matter entirely within your control, in the proviso to the silver law which is in effect now. You can get either legal-tender small notes or legal-tender silver notes.

Mr. REYNOLDS. Mr. Chairman, if we have impressed upon your minds at all the necessity of this for the convenient discharge of the duties and functions of the banks of the country at large, I think it is a matter that you, in your own time and way, can work out.

(The commission thereupon took a recess until 2.30 o'clock p. m.)

#### AFTER RECESS.

The CHAIRMAN. We shall be glad to hear now from the legislative committee of the American Bankers' Association, of which Mr. Arthur Reynolds is chairman.

#### STATEMENT OF MR. ARTHUR REYNOLDS, CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE AMERICAN BANKERS' ASSOCIATION AND PRESIDENT OF THE DES MOINES NATIONAL BANK, OF DES MOINES, IOWA.

Mr. REYNOLDS. Mr. Chairman and gentlemen of the commission, in view of the fact that there has only been about one twenty-sixth of 1

per cent loss to the depositors of national banks through failures, it does not seem probable that either the bankers or the comptroller's department or yourselves will want to take any very radical action in the matter of changing the laws. Further than that, it seems improbable that laws can be enacted which will compel all men to be honest in the management of business affairs. In other words, it does not seem possible that you can legislate to prevent failures.

I have outlined here, very hurriedly, a few points which came to my mind, and possibly to the minds of some of the other members of our committee, which seems to me to be pertinent at this time, although none of us have attempted to cover in a detailed way anything in particular. We expected to come and meet you informally, and hear the discussions, and, if possible, discuss with you such measures as you and the comptroller's department and others might think wise. But the important things which occurred to me perhaps may be enumerated in four or five distinctive features.

First. It seemed to me to be most important that the law should be changed so as to give the greatest possible authority in the way of cooperation between the Secretary of the Treasury and the Comptroller of the Currency, and particularly in the matter of bringing out new ideas of any sort. In other words, I believe that even though you might have the very best man at the head of the comptroller's department, two heads would be better than one in covering these subjects before any new reforms were put into operation.

Second. In view of the fact that the national banks have paid in to the Government, as I understand, about \$96,000,000, and that the Government has only paid out on account of expenses in connection with the national banks about \$26,000,000, it would seem to me to be perfectly proper and right that the comptroller's department should be handled in a little more liberal manner, in connection particularly with the salary of the managers of the department. Hence I believe that the comptroller's salary should be increased so as to be commensurate with the labor which he performs, and also in order to secure the best talent possible for such a position.

It seems to me, next, that we should have, in some respects, more efficient laws. It seems to me, also, that greater care should be taken in the appointment of examiners. I do not undertake to understand just how these examiners are appointed; but I do know it to be an absolute fact that a few years ago we had a man appointed in the State of Iowa who had never had a moment's banking experience. He was an attorney located in the western part of the State, and rather a mediocre attorney at that; and he made an examination of our bank among the first of those that he examined, as I remember. He admitted at that time that he knew absolutely nothing about a national

bank, its functions or methods of doing business, or anything else. He was in the department, I think, about two or three years, and was finally retired, either by his own wish or by the wish of the department, I do not know which. But in that particular instance I know that the proper care could not have been exercised, because there were certainly perfectly competent and capable men in the State of Iowa to have made good examiners.

Next, I believe that there are particular features which have been brought out in the discussions here whereby the examinations could be bettered in various ways.

Next, it seems to me that the cooperation of the directors should be secured, if possible, through closer contact of examiners and the department with them.

The appointment of examiners, it seems to me, should only be made on experience and general fitness for the position. I believe that an examiner should be at least 30 years of age, and should have had a certain period of practical experience behind the counters of a bank.

The present fee system, I believe, should be augmented through a tax on assets similar to the practice in reserve cities. The minimum fee should be that now fixed by law, the tax to apply on gross assets in excess of, say, \$200,000, in order to make it reasonably moderate in the case of small-sized banks. This scale should continue pro rata with the banks of different classes in accordance with the fees now paid. In other words, it should be regulated somewhat upon the basis on which the fees are now regulated.

It seems to me that every examiner should be required to have an assistant. You gentlemen may take issue with me upon this point, particularly in examinations made in the smaller towns. I am glad to say that I was born and reared in a little town, and was for quite a good many years associated with my brother in a bank in a little town; and I have some knowledge of how the examinations have been made, in the past at least, in those banks. If in making an examination an assistant is not furnished, an officer is compelled to call notes to the examiner, or vice versa, and there is a wide opportunity for fraud in that connection. If, however, the examiner had an assistant, especially if the assistant were a stenographer, any particular information could be taken and kept in his files and be of record all the time; and the next time he came back he would not be relying entirely upon his memory. He would have the written record before him, which he could take up and go over and which would be invaluable to him. I believe that every examiner should be compelled to have an assistant, and that there ought to be some law covering this particular point.

I do not believe that the comptroller should be given discretionary power in regard to loans. The loan limit should be fixed definitely by law, and further than this the comptroller should not go. An example will illustrate why such power should not be lodged in the comptroller. In the case of my own bank, for instance, at the last examination we had two loans, as I remember, of \$20,000 each, made to two young men who controlled one of the best insurance companies in our State. The stock of that insurance company is selling at about \$350 a share. We had, as I remember it, about \$60,000 of this stock as collateral to the loans. In addition to this, these young men were worth on the outside approximately \$150,000. Yet we received a letter from the comptroller's office requesting us to reduce those loans. Both of them were within the legal limit. They were independent loans. They were not joint loans, but were amply secured by collateral. This simply shows that it would be impossible to permit the discretion in regard to the quality of loans to lie in the department in Washington, because they could not possibly know about the various makers of the bills receivable. The officers must necessarily exercise the widest kind of supervision over the affairs of the bank. It is necessarily so; it can not be otherwise.

No special protection should be given to the depositor where notice of assessment has been given. It seems to me that the comptroller has handled this matter sufficiently well in the past, and he probably has sufficient authority at the present time to cover whatever cases might come up in this connection.

I do not believe that loans should be made to salaried officers. There has been quite a range of discussion on this subject among the various bankers present; but I can not see how any other conclusion can be reached. It has never been the practice in our own bank to carry the loans of officers; and I do not believe it is quite the proper thing to do, although it seems to me that such loans could be made, and undoubtedly are made in most instances, in perfect safety. I can not see any reason why loans should not be made to directors just as they have been in the past, the same as to any other person.

I do not think that the liabilities of directors should be published. There is nothing to be gained in this particular feature. In fact, I think it would be a great detriment to the banks. In the State of Iowa, state banks at the present time are compelled to publish the liabilities of their directors in total; and I know that it simply cultivates among the banks a disposition to evade the law by trading paper with other banks in the town, and really does not accomplish the purpose for which it is intended. I know that to be a positive fact in my own case with some of the banks in Des Moines.

The list of shareholders of banks, it seems to me, should be published at least once a year, at stated periods. The public, it seems to

me, are entitled to know where the ownership of the stock lies. You might find considerable controversy on that question. But I am connected with a bank in which I happen to own a large part of the stock, and I should not object at all to having the list of stock-holders published. In fact, I think it is a matter of protection. If you put the public on notice by giving them freely the information as to who owns stock in your bank, they are taking their own risk and their own responsibility in depositing with the bank. But it does seem to me that the law should include this point. I believe that that list should be made public at certain stated times each year.

It seems to me, further, that the comptroller should have authority to require a bank to publish a list of its stocks and securities. By this I mean banks carrying an excessive line of any particular kind of stocks and securities. If any of you gentlemen are bankers (and I take it you are, or at least know a great deal about banks), you know that covering up in banks is probably done more through the stocks and securities account than any other account in a bank. If a bank throws bad items into this account, and the comptroller requests certain things to be eliminated, and the banks do not comply with his reasonable suggestion, I think then the comptroller should have authority to compel the bank to make public the list of its stocks and securities.

Mr. VREELAND. Make them public, did you say?

Mr. REYNOLDS. Make them public; yes, sir. I think they should be compelled to publish that list of stocks and securities.

In other words, when my brother and I took hold of the bank in Des Moines we found it in very bad condition. There was a very large amount of assets covered up in the stocks and securities account which had been carried along for quite a good many years. We finally got out from under that situation, and put the bank in good condition. But it seems to me that if there is any attempt to evade the law, or to cover up in any manner anything in the bank by throwing stuff into that account, it would be nothing more than proper and right that the comptroller should have the right to either demand the elimination of that particular class of paper or publish the list, so that the community could know something about the condition of the bank.

Mr. BONYNGE. That is, the bank would not be required to publish it at certain times, but only when the comptroller required it?

Mr. REYNOLDS. They would not be compelled to publish it except in such cases where it was the deliberate intent to cover something up by throwing it into the stocks and securities account.

Mr. BONYNGE. And where the bank had failed to comply with the suggestions of the comptroller?

Mr. REYNOLDS. Yes, sir; only where they failed to comply with the suggestions of the comptroller's department.

It does not seem to me that we should attempt, by law, to limit the ownership of national-bank stock.

It seems to me that reports should be made in duplicate, as has been suggested, and forwarded to the comptroller for his use. We have always kept on file a certified copy of our reports for twenty-five years, ever since the bank was organized. We have kept on file all the time in our bank certified copies signed by the directors, although I understand that this is not done in all cases.

Laws should undoubtedly be made to apply to fraudulent statements in reports.

It seems to me that we should penalize with a fine those who do not make prompt remittances on account of the redemption account.

The \$5 note matter has already been covered quite fully.

Senator MONEY. Do you agree with the recommendations made about that?

Mr. REYNOLDS. I, of course, am not thoroughly conversant with all of the intricate methods of handling the business down here in the Treasury Department. But I do know that in certain seasons no western bank has a sufficient supply of small bills, and I know that there are sections where you can not get them. Just why you can not get them I do not know. We can not get them from Chicago, and they probably can not get them from the department. Personally, I do not see any reason why the entire limit should not be taken off and the banks be permitted to issue \$5 bills in such quantities as they desire; but there might be reasons that I do not understand. I would say, however, that I never would favor the dividing up of the gold certificates into small bills and putting the reserve money in the pockets of the people. I think that would be a serious thing to do. I think if there is any one kind of money that is better than the other, the gold is better than the other forms of money; and if there is any one class that is poorer than the other, we ought to keep the poorer class in circulation.

Senator MONEY. What do you mean (if you will excuse me for interrupting you), by a "better" and a "poorer" class?

Mr. REYNOLDS. Well, that is only a matter of expression. We understand that a bank note is perfectly secure, and we understand that a silver certificate is perfectly secure, and that a gold certificate is perfectly secure; but the gold has come to be recognized by all nations.

Senator MONEY. But when you use the phrase "a better and a poorer class of money," it must represent an idea in your mind. It must be something more substantial than a mere expression.

Mr. REYNOLDS. I have not any other idea in my mind than that gold is the highest standard of value; that is all. It has been so recognized by all nations.

Senator MONEY. Is there any difference in the standard of value? You say "highest," and that means that there is a lower one. What lower one do you know of?

Mr. REYNOLDS. We think that the gold standard is the highest standard.

Senator MONEY. Is there any other?

Mr. REYNOLDS. We would hate to think that silver was the highest standard.

Senator MONEY. Is there any other standard? Is there only one?

Mr. REYNOLDS. I do not know that there is; not in the United States.

Senator MONEY. Do all the different kinds of money perform the same function in this country?

Mr. REYNOLDS. I think they do; yes, sir.

Senator MONEY. Then there is not any difference, really?

Mr. REYNOLDS. Not in point of fact, possibly.

Senator MONEY. It is just in the expression, then?

Mr. REYNOLDS. That is all; yes, sir—largely. But be that as it may, I would personally favor the keeping of the gold on hand and the keeping of the reserve money on hand, and having the national-bank bills perform the function for which they were originally intended.

Mr. BONYNGE. All the kinds of money can not be used for your reserve money?

Mr. REYNOLDS. No.

Mr. BONYNGE. There is that difference, then?

Mr. REYNOLDS. In that respect there is a division of character.

Senator MONEY. That is simply a matter of law, and not a matter of fact. That is another "expression."

Mr. REYNOLDS. It seems to me that stockholders should have the right to fix the price of stock in an increase of capital or in the matter of absorption of another bank. That has been fully covered.

The Secretary of the Treasury and the comptroller should have the authority to remove or fine national-bank officers for flagrant disregard of instructions from the department as to violations of law. I think that is a very important feature.

I have here a little suggestion of my own about which I have not even talked with our committee. It is not thrown out with the expectation that you gentlemen will take it up, but as a thought which appears to me to be true. I believe that the prevailing feeling for the necessity for the guaranty of bank deposits or for a postal savings bank has been very largely brought about through the lack of the ability of the poorer classes to discern between the character of banks and a lack of proper supervision of the banks. In other words, I believe that national banks should be permitted to accept savings de-

posits in a separate department, under special supervision, segregating the assets in this department and limiting the investment to such securities as are permitted to be handled by savings banks in New York, Massachusetts, etc. In other words, protect the small savings depositor with such high-grade securities as would prevent loss. The reserve requirement should be reduced so as not to be greater than ordinary savings banks are required to carry. Either such a department should be authorized or the law changed establishing federal trust or savings banks under similar supervision. The statement of the savings department should be published in connection with the regular statement. If this were done, we would not have very much need for, nor would we hear very much more about, the guaranty of bank deposits or the necessity for a postal savings bank. I believe that there ought to be something brought into the national-banking act which would enable national banks to compete on this character of business and at the same time enable them to handle a class of business which properly comes to their counters to be handled in such a way that they could compete with other corporations and other kinds of banks that are permitted to handle and do handle this kind of business.

In other words, while I have not this matter thoroughly worked out in my own mind, if we had such a department, or such a federal trust company, or a federal savings bank, or whatever you may term it, it would in the end drive state banks, and probably trust companies, under federal supervision. That is so because on an even break the national banks as a whole would stand a better chance of getting the deposits than the state banks which do a similar class of business. It seems to me that it would be very desirable to have all banks in the country under one supervision, and this is one of the methods of bringing this about. I believe that if these small depositors were protected in some such manner as suggested, so that they would be secure, we would not have any need for any further protection for them, such as some people believe that we must have.

Mr. BURTON. Then you would not have the funds of the savings department liable for the debts of the national department?

Mr. REYNOLDS. No, sir; I would segregate the assets of that particular department, keep a separate set of books for it, and specify the particular kind of security that they could invest in; and I would only compel the bank to carry such a percentage of reserve against that particular kind of deposits as has been found to be necessary through the operation of state and savings banks under state laws.

Mr. BURTON. Would you allow them to lend on real-estate mortgages?

Mr. REYNOLDS. Yes, sir; I would specify the highest grade securities, such as is done in the State of New York and the State of Massa-

chusetts and a number of other States, in which, I understand, there has been very little, if any, loss to depositors through the failure of such banks. The cry has come up because of the fact that the common people have not been able to discern the better banking institutions, and there have been losses arising through this which, it seems to me, there could not have been and would not have been if the money had been invested in a specified class of securities, such as is done in the States that I mentioned.

Mr. WEEKS. Why does not the legislature of Iowa, for instance, pass a mutual savings-bank law and let you go ahead and establish mutual savings banks, as has been done in the East?

Mr. REYNOLDS. That is one suggestion; I have had that matter up myself there. Savings banks in the State of Iowa are permitted to do all classes of business. A short time ago there was a bank in an Iowa town with \$7,500,000 of deposits that was doing a commercial and a savings bank business, at times with statements showing to the clearing house a reserve of 14 or 15 per cent, and yet in that same bank they had over \$4,000,000 of country-bank business. This, you know, is wrong. They have changed the conditions. But it only demonstrates that if you are permitted to do all classes of business, particularly in the case of savings banks, where you may invest in long-time securities at a cheap rate, you must be allowed to carry a lower percentage of reserve upon that particular character of business; and I do not know why we should not have a department in national banks which would permit them to do that class of business, giving the condition of that department specifically in the statements of the national bank that was carrying it.

The CHAIRMAN. Your idea is that the savings department would have a higher credit from that fact with the public generally?

Mr. REYNOLDS. Yes, sir; I think they would. I think they would be able to compete with these other institutions carrying savings deposits. In fact, I think they would drive the other institutions into the national banking system; and in that way, to a larger extent, the banks would all be under one supervision.

Senator MONEY. What is the tendency now, to go from state to national banks, or from national to state banks, or is there any movement at all?

Mr. REYNOLDS. There is a very decided movement of state to national banks in the State of Iowa. Of course, we have a great many banks.

Senator MONEY. Yes; but that leads to another question. That means, then, that the national-bank act as it stands offers a great deal of advantage over the state-bank system to people who want to go into the banking business, does it not?

Mr. REYNOLDS. No; it does not offer any advantage at all, except the popularity of the system.

Senator MONEY. At any rate, you say the tendency is to go from a state to a national bank?

Mr. REYNOLDS. Yes, sir; that is the tendency in the State of Iowa, I think.

The CHAIRMAN. But the general tendency in the country has been the other way.

Mr. REYNOLDS. I might say this, in answer to your question, about which I do not want to be misunderstood: There are a great many more state banks being organized in the State of Iowa than there are national banks; but there is somewhat of a tendency in the State of Iowa to convert state banks into national banks.

Senator MONEY. That is exactly what I expected, and that is the reason I asked you the question, because I wanted you to say so.

Mr. REYNOLDS. Yes, sir.

Senator MONEY. That proves to the men who want to do banking the superior advantage of the national banking law over the state law, does it not?

Mr. REYNOLDS. Well, there are advantages and disadvantages.

Senator MONEY. Does it not prove it?

Mr. REYNOLDS. No; it does not necessarily prove it at all, because in an individual locality where you have a national bank, with the people understanding that they are protected in a way perhaps that they are not, the state or savings bank is driven under a national charter, although it may not be half so good as its own for the handling of business in that locality.

Senator MONEY. Is there any proof that the state-bank system is the best system for men to lend money under?

Mr. REYNOLDS. I beg your pardon.

Senator MONEY. It does not prove, at least, that the state system is the most favored one, if they are going from the state to the national banks.

Mr. REYNOLDS. More banks are being organized under state charters than are being organized under national charters, of course.

Senator MONEY. I am not talking about that. You are getting away from the question, which was, What is the tendency—to go from state to national banks, or from national to state banks? You say the tendency is to go from state to national banks; and that shows that to the men engaged in banking there are superior advantages offered by the national banking act over the state banking acts.

Mr. REYNOLDS. It would not show that to me.

Senator MONEY. It would not?

Mr. REYNOLDS. No; it would not show that to me, because I think it depends entirely upon the locality in which the bank is located.

Mr. BURTON. Your state banks in Iowa have a wider range of investment, have they not?

Mr. REYNOLDS. A very much wider range; yes, sir.

Mr. BURTON. Are they under any state supervision?

Mr. REYNOLDS. Oh, yes; they are under state supervision, and very good state supervision at that—very good, indeed.

Mr. WEEKS. Is there any substantial demand in Iowa that national banks be permitted to loan on real estate?

Mr. REYNOLDS. There is a very great demand in the State of Iowa; yes, sir. I have talked to a very great many bankers, country bankers particularly, who are very favorable to that idea. In fact, I have in mind now two or three national bank managers that have told me they would be compelled to go out of the system if they were not permitted to loan on real estate. I think there is such a demand; yes, sir. I would not want to go on record as saying that I believe that it is a good thing to do; but I do say that there is quite a demand among the national banks for it.

Senator TELLER. What occasions that? Is it a lack of opportunity to make good loans?

Mr. REYNOLDS. Yes, sir; it is a lack of opportunity to make good loans, particularly in the State of Iowa. We are very rich there, and there is a lack of opportunity of investment. It drives them into the commercial paper field. I have in mind right now a bank, one of our customers, that was caught on a piece of paper a short time ago, that was originally carrying a nice line of farming loans. The comptroller's office requested them to cut out the farm loans, and they cut them out and invested them in commercial paper, and they lost some of their money. I was talking to a man connected with that particular bank, and of course it was one of their thoughts that they ought to have a wider range in the matter of loaning on real estate.

Senator TELLER. You have reached a stage in the State of Iowa where farm land is considered valuable, have you not?

Mr. REYNOLDS. Yes, sir.

Senator TELLER. That was not a fact when you went there, twenty-five years ago?

Mr. REYNOLDS. Oh, yes; farm lands there are worth from \$75 to \$150 an acre.

Senator TELLER. And there is a demand for them, is there not?

Mr. REYNOLDS. Yes, sir; there is a big demand for them.

Senator TELLER. That is the case in Colorado now, when, twenty-five years ago, they could not sell them at all.

Senator MONEY. This is not exactly pertinent, but as a matter of information, I would like to ask whether the lands have gone down. Has there been any considerable depression in farm lands during this panic?

Mr. REYNOLDS. Oh, my, no!

Senator MONEY. None at all?

Mr. REYNOLDS. None at all. There has been an increase in the value of lands there.

Senator MONEY. It has increased all the time?

Mr. REYNOLDS. Yes, sir.

Senator TELLER. It is the same way in my country.

Mr. REYNOLDS. Land is worth now more than it was a year ago, and more than it was two years ago.

Senator MONEY. I think that is the truth throughout the Middle West; is it not?

Mr. REYNOLDS. Yes, sir; I should think so. I should say it was. I do not have anything further, gentlemen. I do not want to detain you.

Mr. BURTON. In regard to this matter of a savings-bank department for national banks, the usual argument made against it is that the management of savings banks requires a different class of talent; that it dissipates the energy of those that are engaged in the strictly commercial business. What do you say to that argument?

Mr. REYNOLDS. I would not say that that is true; I do not think that that is true. For instance, in our own little bank we have been compelled to open up a savings department. We are carrying twenty-five per cent reserve against it, and making no money at all. It is simply an exchange of dollars; but we have to take care of that class of business that comes to us. During the last four or five months, for instance, we have opened up in that department (in a little town of a hundred thousand people, with nineteen banks, I believe, in the town) something like 1,260 new accounts, as I noticed the other day. So it only demonstrates that there is a class of people that will not deposit their money in any other way except in a savings account; and it seems to me that that class of business ought not to be driven away from your doors.

The other day, for instance (to show you how valuable it is), a man in the savings department brought in a customer who left with me a deposit of \$15,000. The first man only had in his own little savings account probably \$250. But it is a valuable adjunct, not only for the amount of business that is in it, but from the number of people that come in and out of your office and that keep you in touch with the public. In other words, it is believed as to all kinds of accounts in our community that ten accounts are equal to bringing in one new account. That is to say, we believe that for every ten people we will get one new person without any trouble whatever. For that reason a savings department is a valuable adjunct to the national banking business; and it seems to me that that privilege ought to be

given to them. But this is only a suggestion that I have wanted to express.

Senator KNOX. You are doing that now under the provision of the existing law which requires you to carry 25 per cent reserve?

Mr. REYNOLDS. Yes, sir; as a reserve city.

Senator KNOX. Why is it not a good thing even under those conditions?

Mr. REYNOLDS. There is not any money in the transaction.

Senator KNOX. But you have just given us an illustration where there was a very great deal of money in it. You draw people to your bank.

Mr. REYNOLDS. Yes; you do that to that extent; but I mean on the accounts themselves there is no money in it.

Senator KNOX. Any business is good business that brings people to a bank for any purpose, is it not—except a run on a bank, I suppose?

Mr. REYNOLDS. Yes; there is no doubt about that.

I thank you, gentlemen. That is all I have to say, unless you have something more to ask me.

Mr. PADGETT. I should like to ask you one question. You mentioned early in your statement that you thought the directors ought to have the full privileges that are accorded everybody else to borrow from the bank. Now, suppose the salaried officers of the bank should lend to the directors. What would be the difference, or how would you differentiate the directors lending to the officers?

Mr. REYNOLDS. Mr. Padgett, I should say that the experience of the comptroller's department demonstrates that the losses on loans made direct to officers so much overtop the losses on loans made to directors that on the law of averages it would be much safer to permit directors to borrow than it would to permit salaried officers to borrow.

Mr. PADGETT. Have there been any instances where there have been losses when it has required the official action of the board, as a board, to lend to the officers?

Mr. REYNOLDS. I think probably not. I quite agree with that thought—that there might be something worked out along the line of compelling all officers' loans to be submitted to the directors and passed upon by the board.

Mr. PADGETT. Officially?

Mr. REYNOLDS. Yes. However, I was just reading in the report here a statement from the examiner in the State of Iowa showing a bank at Forest City, Iowa, which is owned by the Plummer family. They are all Plummers. There are no other people interested in the bank. In that particular case you can readily see that the directors of the bank were in fact the officers, and the officers were the directors.

Mr. PADGETT. I am asking for information. I wanted to get your opinion on the question.

Mr. REYNOLDS. I think you can not legislate, as I said at the start, to protect people from becoming dishonest, or doing fraudulent business; and it seems to me that it would be a reasonably safe transaction to permit officers to borrow under that condition, where the loans are passed upon by the board of directors.

**STATEMENT OF MR. E. F. SWINNEY, PRESIDENT OF THE FIRST NATIONAL BANK OF KANSAS CITY, MO.**

The CHAIRMAN. Mr. Swinney, have you anything that you would like to say to us? We would like to hear you, in any event.

Mr. SWINNEY. Mr. Chairman, I have nothing to say, except this: The question has been spoken of here in a number of cases about bank examiners being political appointees. I will say that our district comprises Kansas and Missouri. I have been in one bank there for twenty-two years; and while it may have been that the appointments were made from political influence, I have never known of an instance where the examiner was not an experienced bank man, and in the twenty-two years I believe that three-fourths of those examiners have gone in a few years to positions in larger banks. For instance, I can name you in St. Louis two or three or four of the cashiers of the large banks, one of them being the president now, who were bank examiners in our district. And the same thing is true in Kansas City; one or two of the former examiners are now officers in the larger banks.

As to violations of the banking law that have been alluded to, I do not believe any law can be enacted that will keep you from having men in the banking business who will do dishonest acts. As I said to your chairman, there is no State in the Union that has not a law against stealing horses, but still stealing goes on. You may put any kind of law on your statute books that you want to, but we will have men in the banking business who will not follow the law and who will do a dishonest business. For that reason I believe that the banking act, so far as the operations of it are concerned, does not need a great many changes.

There is one thing that has come up that I have not heard mentioned by any of these gentlemen. That is, I think that the comptroller should have authority to fine an officer of a bank who makes an overloan. I believe that matter was brought up yesterday by some of the officials. The only thing the comptroller can do now is to take the life of the institution. He has no authority whatever to stop that sort of thing or impose any kind of a fine against an officer for making overloans. All he can do is to call attention to it.

I heartily agree with the remarks that have been made by the various chairmen of these committees; and, with very few changes, I think that our banking law, so far as its operation is concerned, is in very good shape.

Senator TELLER. Mr. Swinney, I should like to ask you a question. I do not remember when this provision of law was passed, that a loan shall not exceed 10 per cent of the capital, but it has been in operation ever since I can remember.

Mr. SWINNEY. Senator, we had a law that we could only loan 10 per cent on the capital up to 1906. In 1906 you passed a law whereby we can loan 10 per cent of the capital and 10 per cent of the surplus.

Senator TELLER. Yes; I remember that very well.

Mr. SWINNEY. But not to exceed 30 per cent of the capital in any instance. I think that perhaps that bill was passed in that way to cover the case of a few banks like—if I may say so—the institution that I am at the head of and the one that Mr. Porter is at the head of. It was feared that banks would start with a very small capital and a big surplus to evade the stockholders' liability, I imagine.

Senator TELLER. Yes; undoubtedly.

Mr. SWINNEY. But since that law has been in effect I imagine there have not been a great many violations of it.

Senator TELLER. How long have you been banking in Kansas City?

Mr. SWINNEY. Twenty-two years.

Senator TELLER. During that time—I suppose all that time—there has been this law about 10 per cent, has there not?

Mr. SWINNEY. Yes, sir.

Senator TELLER. Has it not been the custom in that western country to absolutely ignore the law when good loans were offered?

Mr. SWINNEY. Senator, I will say this to you: I remember that in one report which we made, an examination that we had, we had 62 overloans; but since this new law went into effect the institution has not had a single overloan.

Senator TELLER. It was not necessary, perhaps, after that. Your surplus was large, probably.

Mr. SWINNEY. We took a part of our surplus and put it into capital; and I think that with the new law that we have now all banks should operate within the law.

Senator TELLER. I do not suppose you have found it so, but in some of the smaller towns in the West, in Colorado, it has been difficult for banks to loan their money. They have had deposits of ten times their capital. It is often difficult, in the case of a mining town in Colorado, to loan money. For instance, a banker in a town at the foot of the mountains said to me: "We have three millions of dollars here which we ought to loan." I said: "Why don't you loan it?" "Well," he said, "the people who deposited it here were afraid to

loan it, and we are afraid to loan it." It is difficult to make loans there where there are not any large commercial transactions; and in that way the practice of ignoring the 10 per cent limitation has grown up.

Mr. SWINNEY. I do not think it is ignored now.

Senator TELLER. I am not speaking of now; I am speaking of the past.

Mr. SWINNEY. Oh! They did not pay any attention to it.

Senator TELLER. I have been a bank director, and I was the attorney for two banks for about twenty years, and had something to do with them; and I know absolutely that they made loans when they could make good ones without reference to the amount, and they were good bankers, too. I do not know, in my own experience, of a single dollar being lost by those banks as a result of excessive loans.

Mr. SWINNEY. Of course it is not in your large loans that you generally have the loss; it is in your medium-sized loans; and there are circumstances when it seems that a bank ought to be allowed to make a loan in excess of the limit. But still, at the same time, I am not in favor in any instance of allowing the comptroller or some one else to permit that.

Senator TELLER. I think the banks ought to obey the law; but I have always felt that the limit was rather small in western countries.

Mr. SWINNEY. I do not know about that. Our limit now is \$150,000.

The CHAIRMAN. Since we have increased the limit by adding the surplus, that, of course, has changed things very much.

Mr. SWINNEY. Yes.

Senator TELLER. We did that in 1906.

Mr. SWINNEY. I can see where in some instances it is a hardship in Kansas. There are a great many banks in Kansas with small capital (\$25,000), and there is a great deal of cattle feeding done in that country, and \$2,500 does not go very far toward taking care of a cattle loan.

Senator TELLER. No.

Mr. SWINNEY. But at the same time, I do not see how you can get around it very well.

Senator MONEY. Mr. Swinney, let me ask you a question based on your observation. Has it been the disposition to lend money on real estate?

Mr. SWINNEY. No; we have never had anything of that kind.

Senator MONEY. I do not refer to national banks; to state banks. Have you noticed that there have been any loans on real estate during this panic, for instance?

Mr. SWINNEY. Oh, in Missouri—our state banks are all allowed to loan on real estate.

Senator MONEY. I know that; but has there been any disposition to do it?

Mr. SWINNEY. Oh, yes; they all do it.

Senator MONEY. They have done it? They have been doing it?

Mr. SWINNEY. If you will take up the reports of the Missouri banks, especially in the country (I am not talking about the city banks now, but the country banks), you will perhaps find a third of them with real-estate loans. A third of their loans are real estate.

Senator TELLER. That means farm property?

Mr. SWINNEY. Farm property.

Senator MONEY. In my State you can not get a loan on real estate. The banks will not take it, as far as I know.

Mr. SWINNEY. You see, in Missouri we only have, I think, 118 national banks. They are nearly all state banks.

Senator TELLER. How many state banks have you?

Mr. SWINNEY. I think there are, all told, about 630 banks in the State. The others are state and private banks.

The CHAIRMAN. Are some of the state banks large banks?

Mr. SWINNEY. Oh, yes! yes, sir. We have in St. Louis the old Boatmen's Bank, the oldest bank in the State, which has two millions of capital and some sixteen or eighteen millions of deposits.

The CHAIRMAN. Does this bank loan on real estate?

Mr. SWINNEY. Oh, yes, they will.

The CHAIRMAN. And all of their deposits are payable on demand?

Mr. SWINNEY. Yes, sir.

Senator MONEY. While I was out in Buffalo this summer I went into one of the largest banks there; I was introduced by a gentleman who was acquainted there, and they told me that they would not make any loans on real estate at all.

Mr. SWINNEY. In Missouri they do.

Senator MONEY. And as far as they knew, that was the rule in northern New York. I do not know; I simply made some inquiries about the matter, and I found that generally the banks have not been lending on real estate at all lately. I do not know whether they are getting out of that or not.

Senator TELLER. Senator, was that a state bank in New York?

Senator MONEY. I do not know whether it was or not. I suppose it was. I will tell you what bank it was: It was called the People's Bank. Mr. Bissell is the president of it; and I was introduced to him because I used to know his brother, who was Postmaster-General under President Cleveland.

Mr. VREELAND. Mr. Swinney, what part do you think the directors should take in the management of a bank?

Mr. SWINNEY. I will say this on that point: I think we have had a fairly successful institution; and twenty-two years ago, when I

went to take charge there (I had been in the banking business then about ten years and our bank was a comparatively new one), I said to the directors that I was willing to do so provided they would give me their aid in the way of coming to the bank. We arranged at that time for our directors to take lunch at the bank; and in the twenty-two years I am free to say that I believe we have had a quorum of our directors two-thirds of the time, every day.

Senator TELLER. Every day?

Mr. SWINNEY. Every day; yes, sir.

Senator TELLER. That is rather exceptional in the West, I think.

Mr. SWINNEY. Our institution is situated a little differently from most corporations.

Mr. PADGETT. You made the sheep an argument for them to come, did you not?

Mr. SWINNEY. Yes; we told them we would give them their lunch.

Senator TELLER. How many directors have you?

Mr. SWINNEY. Eleven; but four of them are officers of the bank. Then the chairman of our board makes five right there, you see.

Mr. VREELAND. Do you think it is valuable to the bank that the directors, or a committee of them, should know the larger lines of credit—the principal places where money is loaned?

Mr. SWINNEY. Beyond question; yes, sir. I think that an officer of a bank owes it to himself to know that, where he is trying to conduct his bank in an honest, intelligent way. Very often matters will come up from a director regarding some loan that I would not know anything about, even though I would be right in the bank; and yet he would know something on the outside about it, which helps very much.

Mr. VREELAND. What would you think of the New York plan of requiring the board of directors or a committee of the board of directors to make one return to the comptroller a year, based on an actual examination, giving their opinion upon the value of the securities and property owned by the bank? That will not do your bank any good; but are there not hundreds and perhaps thousands out of the six or seven thousand national banks where the directors have no knowledge of the large lines of credit that are existing?

Mr. SWINNEY. Mr. Vreeland, I think that in the majority of those cases the managing officers of the bank would make out the list and ask the directors to sign it.

Senator TELLER. And they probably would.

Mr. VREELAND. It does not work that way in New York. The managing officer of a bank there can not make out the list without committing a misdemeanor. It is an absolute requirement of the law that the directors, or a committee of them, must actually make it out. Of course they do not have to write the figures down, but they must

actually take the bonds and the stocks and give their opinion as to whether they are worth par, or above par, or below par.

Mr. SWINNEY. They do that to-day in the comptroller's report. I know some of you are directors in national banks; but how many of you, do you suppose, ever read one of those reports through before it was signed?

Mr. VREELAND. Oh, they are usually signed as a mere matter of form.

Mr. SWINNEY. In that report you have to give your estimate as to the value of your stocks and bonds and everything of that kind; and yet the directors never look over the reports.

Mr. VREELAND. Do you mean the report signed by the three directors?

Mr. SWINNEY. Yes, sir; the itemized report.

Mr. VREELAND. That is signed as a matter of form.

Mr. SWINNEY. They sign the other report as a matter of form, too.

Mr. VREELAND. It has not been so in New York. The law has been in effect over a year, and the examinations are actually made by the committee.

Mr. SWINNEY. Of course if you can force them to go into the matter and look into it, it is all very well. But my opinion is that three-fourths of the time they would not pay any attention to it; they would have some clerk make it out and just sign it up.

Thank you, gentlemen.

The CHAIRMAN. Mr. Reynolds, are there any other members of your committee who would like to be heard?

Mr. GEORGE M. REYNOLDS. Mr. Hamilton and Mr. McCord—Mr. Hamilton of Hoopeston, Ill., and Mr. McCord of Atlanta, Ga. I do not know just what they have in their minds.

The CHAIRMAN. Mr. Hamilton, we shall be very glad to hear from you.

#### **STATEMENT OF MR. JOHN L. HAMILTON, OF HOOPESTON, ILL.**

Mr. HAMILTON. Mr. Chairman and gentlemen, I do not know that I have very much to say on this subject, further than that I coincide in a general way with all the recommendations that have been made by both the committees. The thought has occurred to me, however, that it would be well to look into the question of double liability of corporations holding the stock of national banks, and it seems to me, while I am not a lawyer, that the law might, perhaps, need to be amended, to be effective, so as to include in that particular section of the law a provision that all stock held by corporations or individuals should be liable to the double assessment. I do not know whether that would apply to state institutions or not, but if it would, that would cure that defect.

I think the Comptroller of the Currency raised one very important question relative to the appointment of receivers. It seems to me that the question was not thoroughly gone into at this meeting. In looking over the law in a general way, it is not clear to my mind that he has sufficient authority to take immediate possession of a failing institution. It seems to me that his authority should be extended in that direction. We have had similar trouble in Illinois in connection with our state banking laws there, and we recently passed, at the last session of the legislature, a law curing such defects, which was ratified by the vote of the people, giving the auditor of state, who is in charge of our banking department, authority to take immediate charge of failing institutions, and giving him further discretionary powers relative to the organization of institutions.

Senator MONEY. Excuse me right there—you say your state law gives the auditor power to take immediate charge of a failing institution?

Mr. HAMILTON. Yes, sir; or one he supposes to be in that condition.

Senator MONEY. How does he tell whether it is failing or not? Is it just a matter of his judgment?

Mr. HAMILTON. The state auditor, through his banking department, determines whether or not it is in that kind of a condition.

Senator MONEY. Would you require an act of the bank, something to happen to show that it was failing, or would it be sufficient if, in his opinion, it was in a shaky condition?

Mr. HAMILTON. In such instance we have to depend upon the judgment of the department. The occasion that brought this about was the failure of what was known as the American Bank in Chicago and the Stensland Bank in Chicago. They were both state institutions; and considerable newspaper notoriety sprang up in connection with the failure of those banks, owing to the fact that under the old law as it existed in the State it was necessary for the state auditor to give thirty days' notice before he took charge of such an institution. The result was that some parties went out and bought up a few claims against the institutions, and applied for a receiver to be appointed; and there was a contest as to who the receiver should be, etc. There was quite a loss there in the assets of their institution in the way that that business was wound up which could have been obviated if the auditor had had proper authority; and it seems to me there is a bare possibility that such a condition may exist in the national banking law. That is the idea in my mind.

Senator MONEY. The auditor, then, was to proceed upon a newspaper report of the failing condition of the bank, was he?

Mr. HAMILTON. No; he has his examiners, and proceeds upon what examination and inside information he has. He is not governed by the public's opinion, of course.

Senator MONEY. He would be prompted to send an examiner there, though, by a newspaper report that the bank was in bad condition?

Mr. HAMILTON. The examiner himself reported the bank in bad condition; but he had not any authority there to take charge.

Senator MONEY. That is what I was trying to get at. What moved the auditor to take charge? On what state of things could he take charge?

Mr. HAMILTON. He found from the report made by his examiner a bad condition, but he had no authority under the state law to take charge without thirty days' notice to the organization.

I think this as to another question that has come up before you gentlemen: While it is probably not part of this act, yet I think you should be very careful about reducing the size of your gold certificates. I think the whole monetary system of the country depends upon the gold reserve; and if you put those certificates in small denominations they are liable to get into the pockets of the individuals, and be hard to get back where they belong, as reserve for the deposits and credits of your national institutions.

I do not know of anything else to be said except this: It has been my experience in connection with legislation that officers in charge of banking departments in many instances aim to escape individual responsibility by having legislative enactment. We all aim to escape responsibility in our own institutions by throwing responsibilities on directors, etc. I believe that the best course to pursue, if you will permit me to suggest it, is to keep legislation down to the minimum and let the officers assume their responsibilities.

Senator TELLER. That is correct.

Mr. HAMILTON. And I want to say this, as one of the members of the federal legislative committee of the American Bankers' Association: That we are pleased to meet with you gentlemen; we are pleased to cooperate with you as far as possible in any measure that has for its object the good of the country, and we realize that all legislation must of necessity be more or less of a compromise. And if you see fit to intrust us with any prospective legislation, we shall be free to criticise it in a friendly manner, and hope that we can all get together and work to one common end.

#### STATEMENT OF MR. J. A. McCORD, VICE-PRESIDENT OF THE THIRD NATIONAL BANK OF ATLANTA, GA.

Mr. McCORD. Mr. Chairman and gentlemen, I think this subject has been pretty freely and thoroughly discussed, and there is no use in traveling over the same ground again. I fully concur with the gentlemen who have preceded me. I think that we have thrashed out a good many of these questions along the right line, and I can not

see any special need of any enormous amount of legislation. I think a little more regard for the duties of a bank officer and director and a little better exercise of authority on the part of the Comptroller of the Currency will bring about needed reforms without having to put them in the statutes.

There are a few points on which I might disagree with the other gentlemen who have spoken here. I come from a section of the country that has but very few reserve cities. All of the gentlemen who have preceded me, except Mr. Hamilton, are from central reserve cities and reserve cities of the United States. I come from a city that is not a reserve city, and what might apply very satisfactorily to the central reserve cities and the reserve cities of the United States would not naturally apply to the interior banks.

On the question of loans to the officers and directors of banks, I must dissent from or disagree with the gentlemen who have preceded me, for this reason: In the small country towns of 5,000 or 10,000 inhabitants, or 1,000 or 2,000 inhabitants, the very best men in the community are, or should be, the bank officers. They are engaged in other lines of business, and the position they occupy with the bank will not justify them in giving their whole time and attention to the management of those small institutions. They have to do something else for a livelihood. They take a nominal salary to act as president of the bank, and go once a day, or something like that, to see that the cashier is discharging his duty properly. But if you put upon them the onus that they can not borrow at their own institutions, on good collateral, you are driving them from the efficient position they ought to hold in those small banks. That is my view of the matter. You gentlemen, of course, can have yours; but that is mine.

Senator MONEY. Let me ask you this question right there, Mr. McCord: How would it do to have a division line?

Mr. McCORD. Senator, I was just going to suggest one idea and submit that, and probably you and I will agree on it. I have been chairman of the legislative committee of the Georgia Bankers' Association for ten years. I succeeded in 1907 in getting a bank act passed which carried with it this idea relative to loans to officers and directors: That the loans made to officers and directors must be well secured, and must be voted upon by the board of directors, and must be so stated in the minutes of the meeting passing upon the same. That is going a long way toward curing the defect. It is in the right line.

The great trouble with the national system heretofore has been that no due regard has been given to that particular matter. Our incoming comptroller is looking the matter up all right, and he is getting on the right line. But I believe, gentlemen, that an officer of a bank in one of those small towns who receives only a nominal sal-

ary should not be barred from borrowing at his own institution, provided he puts up collateral that is satisfactory to the board of directors—because he has other business or means of livelihood besides the presidency of that bank. The bank can not pay him a salary which will justify him in giving up all of his business and staying at that one institution. If an officer or director should have to go to another bank to borrow, naturally the other bank would expect the deposits of such officer or director to compensate it for the reasonable rate of interest they would grant. It would bring a reflection on the bank to have its directors deposit elsewhere.

The great trouble that has come, in my opinion, is the result of allowing the officer to whom the loan is made to have control of the securities as well as of his loan, and "swapping" securities. If any enactment is made at all, it should stipulate that there should be a signed statement, either in the minutes or otherwise, showing what security is put up for the loan. I think if you will trace the matter down in the comptroller's department you will find that the trouble has arisen from the fact that the officer had possession of his collateral, and was allowed to switch his collateral, or probably something of that kind. I think that has caused a good deal of this trouble.

Another feature is the damage that has arisen from excess loans. With my predecessors here we appeared before the House Committee on Banking and Currency, of which several of you gentlemen are members, and we thrashed out pretty thoroughly that matter about 10 per cent of the capital as limit to loans. The old law was so far out of the way, as compared with what it ought to be, that it was disregarded by the banks and by the department. For that reason there was absolutely no attention paid to it, and banks were permitted to get into the hands of certain institutions that used all of their funds, or nearly all. When we appeared before the Banking and Currency Committee of the House we assured them that if they would get this law passed it would diversify the loans; it would have the effect of dividing out those loans and changing the results, and that has been true. I think that if you will make the investigation you will find that these losses that have come to the public so generally have been where the loans were made prior to the new law, and that the new law, with the rigid rule of the department holding loans down to 10 per cent of the capital and 10 per cent of the surplus, is not affecting the condition of the bank, and the bank is not suffering from any losses from that direction. I think the whole thing is cured now if you will just give the new law an opportunity to work out these surpluses of loans that were in existence at the time the new law went into effect.

If you will excuse me, I want to take up the subject in a general way, because I shall not undertake to handle all of the points, but just a few of which I have made a memorandum.

The other point is as to the \$5 bills, and why there is such an enormous demand for this small currency. It so happens that the appropriations for the Treasury Department are always exhausted just about the time it becomes necessary to have crop-moving money in the South and the West; and for that reason the old system or practice of paying express charges on silver is discontinued at the very time that it would prove beneficial to those sections. That has brought about the enormous demand for those small bills. They used to deposit New York exchange with the subtreasury in New York, telegraph their correspondent there, and the New Orleans subtreasury was ordered to ship the silver out all through the South to pay for the cotton. Now that is not done, because the Treasury Department has not the funds to pay the express charges; and the express company charges such enormous rates on the shipments that the banks themselves do not do it.

The CHAIRMAN. Which kind of currency do you prefer?

Mr. McCORD. I think that the silver certificates and national bank bills in the small amounts are preferable for this class of business.

The CHAIRMAN. I mean do you prefer the silver dollars or the silver certificates?

Mr. McCORD. Our people prefer the silver certificates, a great many of them. They used to want the silver dollars; but now they are taking the silver certificates in preference.

Mr. WEEKS. Mr. McCord, if the people want the silver dollars, and there is not any appropriation to pay the expressage, why do you not pay it yourself?

Mr. McCORD. It amounts to \$4 a thousand; and the express charges on the silver certificates are 60 or 75 cents a thousand, which is quite a difference.

Mr. BURGESS. It is \$3.40 difference.

Mr. McCORD. Yes; \$3.40 a thousand difference. For that reason the banks of the South have quit shipping the silver dollars. I have actually loaned money to banks in the interior, and when they presented a statement to me I have said: "Why, you have enough money on hand not to be borrowing money. What do you want to borrow money for?" "Well," they said, "that represents silver dollars, and we can not use them; we can not utilize them; we can not pay them out." I said: "Why don't you ship them in?" "Why," they say, "it costs us \$4 a thousand to ship them in." I said: "The interest for this period that you propose to borrow from me about eats up your shipping charge. Suppose you try it on. Of course, I would like to

loan you the money." But, gentlemen, what I was after was this: I was after getting rid of the enormous shipment back and forth from the Treasury every year as it had occurred with us. I was trying to get rid of the actual burden of taking care of their silver to the extent of shipping \$40,000 or \$50,000 a month, in my own experience, into the Treasury, that comes to us from our country banks. Now, that is practically done away with; and to supply that demand these one and two dollar silver certificates and the smaller bank notes are being used for the handling of the crops. If you gentlemen could see fit to make this change—I am not here to suggest legislation; I am simply stating my view of it—if you would increase the amount that may be outstanding in \$5 bills to 50 per cent, and then permit all of the national banks with \$100,000 capital or less to take the entire amount in \$5 notes, you would go a long way toward meeting the popular demand that is made upon the banks of the country.

Senator MONEY. Do you mean to take the whole of their circulating notes in \$5 bills?

Mr. McCORD. Those with \$100,000 capitalization.

Senator MONEY. To take all of their circulating notes in these bills?

Mr. McCORD. Yes, sir; in \$5 bills, if they so desire. My reasons for that are these: Under the present law, if you require the \$20 or \$10 or \$50 silver certificates to be shipped in in order to get ones and twos, you put upon the bank the burden of paying the express charges in and the express charges out on that particular currency; whereas if you were to permit them to issue \$5 bank notes up to \$100,000, the country banks, the small banks in the interior towns, would increase their circulation when the crop-moving period came, and would take the direct shipment from the Treasury to them at the rate of 60 cents a thousand of their own bills, and do away with such an enormous drain made upon the Treasury Department for the silver certificates.

Senator MONEY. Mr. McCord, what is the objection to that plan?

Mr. McCORD. To what plan?

Senator MONEY. To allowing the national banks with small capital, say under \$100,000, to take out all of their circulating notes in \$5 bills.

Mr. McCORD. I do not know that there is any objection to it.

Senator MONEY. I thought probably you had heard of some.

Mr. McCORD. I can readily see, with your chairman, why it is wise to restrict the amount of national-bank notes in certain denominations. I can see that. It keeps the silver certificates circulating in the people's hands. It prevents an enormous withdrawal of gold, should it ever occur at any one time, to go to Europe; and that is a very good reason for putting some limit on the amount of national-bank notes that may be issued in the small amounts.

Senator MONEY. But will not the people need all of these?

Mr. McCORD. I do not think they will need them all. I think if these little changes that I suggest should be made, if you will give the banks of \$100,000 capital and less the right to issue all—

Mr. BURGESS. Or even \$50,000?

Mr. McCORD. Fifty thousand dollars would not reach it, I think, sir.

Mr. BURGESS. You think not?

Mr. McCORD. I think not.

Mr. PADGETT. Just at that point, is it not a fact that many of the smaller banks only have plates issued for the smaller denominations, and decline to issue the full amount because they do not want to pay for plates for the larger amounts that they can not use?

Mr. McCORD. That is true, sir. The smaller bank, gentlemen, does not have the opportunities of revenue that the larger banks in the cities have, that have the larger deposits. The smaller banks have to depend largely upon their own capitalization for their earnings. The city banks depend largely upon their deposits, and can afford expenses that the country banks can not. For that reason, as Mr. Padgett suggests, they will not take out the other plates. It is an additional expense to them; and in that view of it, that is the reason.

The CHAIRMAN. How much circulation have you, Mr. McCord?

Mr. McCORD. We have \$250,000, sir.

The CHAIRMAN. How many \$5 bills have you?

Mr. McCORD. We take the one-third.

The CHAIRMAN. You take the full amount you are allowed?

Mr. McCORD. Yes, sir; we take the full amount. We have a capitalization of \$500,000, a surplus of \$500,000, and undivided profits of about \$100,000—somewhere near there.

The CHAIRMAN. You have a good bank.

Mr. McCORD. Yes, sir. We took out \$250,000 circulation. We will not take out any more at the present prices of the bonds. I believe that any circulation taken out with bonds at 104 would be a loss to the institution.

Mr. WEEKS. What do you suppose would happen, Mr. McCord, if Congress failed to make an appropriation for the transportation of silver?

Mr. McCORD. What do I suppose would happen?

Mr. WEEKS. Yes.

Mr. McCORD. Why, it would go on just as it has been doing.

Mr. BONYNGE. That did happen at the last session.

Mr. McCORD. It did happen.

The CHAIRMAN. We have not made an appropriation for this purpose for the last two or three years.

Mr. McCORD. It has already happened.

Mr. BONYNGE. I think last year was the first year.

Mr. McCORD. No; year before last.

Mr. PADGETT. That has been the case for two years, according to my recollection.

Mr. McCORD. I am not suggesting the appropriation, gentlemen. It floods us with the silver, you know.

Mr. BURGESS. But the people want some kind of small money just the same.

Mr. McCORD. Yes.

Senator TELLER. You did not have so much of this trouble until you failed to get that appropriation, did you?

Mr. McCORD. No; that is true, Senator; that is true.

Mr. BURGESS. There is no doubt about that.

Mr. SWINNEY. Will you allow me to ask Mr. McCord one question, gentlemen?

The CHAIRMAN. Certainly.

Mr. SWINNEY. Is it not a fact that from the movement of the crop until about the 1st of January you are short of these bills?

Mr. McCORD. That is true.

Mr. SWINNEY. After that time you do not know what to do with them?

Mr. McCORD. That is right; I agree with you thoroughly, sir.

Mr. SWINNEY. That is our experience.

Mr. McCORD. But you are compensated to a certain extent by the fact that your credits move to the centers, and you ship in the currency at a nominal rate of, say, 60 cents; and your premiums on New York largely cover that.

The CHAIRMAN. You turn over the trouble to somebody else?

Mr. McCORD. Yes; we turn over the trouble to somebody else.

Senator TELLER. What do you do when you do not need these small bills? What disposition do you make of them?

Mr. McCORD. We send them to Cincinnati, the nearest subtreasury to us.

Senator TELLER. You send them to the subtreasury?

Mr. McCORD. Yes, sir.

Senator TELLER. And get other money for them?

Mr. McCORD. No; we take credit with our reserve account in Cincinnati.

Senator TELLER. Oh, yes.

Mr. McCORD. I do not know what the subtreasury pays to the First National Bank of Cincinnati, who are our reserve agents at that point. I do not know what they pay them; but we take credit with our reserve agents, and they get paid from the Government.

Senator TELLER. In other words, you utilize the money?

Mr. McCORD. Oh, yes; we utilize the money.

In regard to the impairment of the capital of banks, I think the Georgia law, recently passed, is very good along this line.

As to the publication of shareholders, I disagree on that point, gentlemen, with my brethren. I have no objection whatever to any man knowing our shareholders. We will send that list to the department here once a year on the first Monday in July of each year, and it must be sent on that date, and it is sent on that date. I would be perfectly willing, and think it would be all right, to require the officers of the bank, upon the request of any depositor, to show their list of shareholders and the number of shares each one held. But I disagree with the publication for this reason: It creates an undue stock market in your stocks, and it leads some other bank to begin to thump at your shareholders to try to get the business; and I think that is going a little bit too far in the protection of the depositor. I think the depositor can be protected along other lines, as has been stated here, in various ways, better than to take that extreme measure of publishing the list of shareholders. A good many do it openly, and that is all right. I am perfectly willing for any man to see ours—any creditor of the bank, any depositor, or any man who wants to be a depositor.

Mr. PUJO. Any creditor or depositor has that right now.

Mr. McCORD. Yes; any creditor or depositor has that right now.

Mr. PUJO. Under the law of our State.

Mr. McCORD. He has a right now under the law.

Mr. PUJO. And he can get a mandamus on the officers of the bank if he is denied it?

Mr. McCORD. Yes, sir.

Mr. BURTON. Do not your state taxing laws require publication of the list of stockholders?

Mr. McCORD. No, sir. The officer of the bank, either the president or the vice-president or the cashier, makes the returns for the entire capitalization, and the taxes are paid by the officer for the entire capitalization.

Mr. BURTON. That is true very generally; but in many of the States there is a complete list published of the holdings, and the assessed valuation of each.

Mr. McCORD. Yes; that is true.

Mr. WEEKS. To whom does he make that return, Mr. McCord?

Mr. McCORD. He makes it to the county tax assessor or to the tax receiver. He makes that return to them.

Mr. PUJO. Our state law is the same way.

Mr. McCORD. We are allowed to deduct whatever we may have in an office building or realty, where we pay a tax direct on the realty. Our law requires that—that realty shall be returned regardless of who holds it; and we then have that as a credit.

As to the grouping of the small banks and the larger banks, and so on, I noticed in the comptroller's statement that he read yesterday that some bank examiners get \$2,000 or \$2,500 a year and others get \$10,000 or \$15,000; but he said that with their assistants it brought their compensation down to about \$10,000. I can readily understand that that is fair. There is no reason why we should object to that. But here is the position that this law puts us in: We, for instance, are a bank of \$1,000,000 capital and surplus, \$100,000 undivided profits and a deposit account of a little over \$3,000,000 in a territory with a lot of small banks. The examiner that comes to us, unless he has a very wide range of territory, can not get a compensation that will justify the appointment of a man to handle the affairs of an institution the size of ours. The man of \$2,000 salary can handle the small bank very well, because its business is purely loans to the farmers or to the merchants, and there is not much in it except that. But when he has to take that territory and depend upon that for his salary, and examine us, too, he must be a man thoroughly versed in such matters in order to handle the larger institution. I think that if you go to the salary system it would be a very dangerous proposition. But I agree with the gentlemen who have preceded me that the present fee system, augmented by an assessment upon the total assets of an institution as to the time required or in accordance with the volume of the business, would be a very nice way, indeed, to handle that matter.

Mr. BONYNGE. Why do you say it would be dangerous to go to the salary system? I have noticed that all of the bankers to-day have opposed it, and I have been somewhat surprised by their view of that matter.

Mr. McCORD. There are various reasons. One is that if you undertake to set up here in the Treasury Department or in this particular department salaried officers you would never reach the point where you would give a salary to a man that would be just both to the depositors and to the Government in managing the banks in New York City and Chicago and St. Louis and similar cities.

Mr. BONYNGE. Then your theory is that the salaries we would fix for such examiners would not be adequate, and that we would not get the best men?

Mr. McCORD. You would not get the best men, so far as that is concerned.

Mr. BONYNGE. Is that the only objection?

Mr. McCORD. That is one of the objections. Another objection is this: If a man is put on a salary and has a stipend in that kind of a department, where he is his own boss, and runs around, you are not

going to get any better results—in fact, I do not believe you are going to get as good results as you do to-day.

Mr. BURTON. Is not that counterbalanced by the danger that he will slight a bank which should have an elaborate and lengthy examination?

Mr. McCORD. Yes.

Mr. BURTON. Does not that counterbalance that disadvantage under the fee system?

Mr. McCORD. Oh, no, no; I think not, for this reason: He is paid a salary, and he goes to that institution, and he gives it a "wipe" and goes on. He comes to another institution that is run pretty well, and he will take just about as much time in that as he did in the other. So the Government does not get good results, and neither does the depositor.

Mr. PADGETT. Let me ask you the same question from another viewpoint: Is it any element in reaching that conclusion that in fixing salaries you would increase the aggregate amount to be raised by contribution from the banks, and that the aggregate charge upon the banks would be much greater?

Mr. McCORD. The aggregate charge, Mr. Padgett, would be greater—why? Because the man would not cover so much territory.

Mr. PADGETT. I say it would. Is that an element that enters into the consideration of opposing salaries?

Mr. McCORD. Yes; that is one of the elements that enters in. For instance, the man who now examines Georgia has Georgia, Alabama, Florida, and Tennessee in his district.

Mr. PADGETT. Yes.

Mr. McCORD. He is spread all over that territory, and it is just "hump and go" from one place to another.

Senator TELLER. Does he examine all the banks in those States?

Mr. McCORD. All the national banks.

Senator TELLER. I mean, all the national banks?

Mr. McCORD. Yes, sir. Georgia has 89 national banks, and she has a total of 595 banks altogether. The state banks number 492, and the others are private banks.

Mr. BONYNGE. How many national banks are there in your district that the examiner has to examine?

Mr. McCORD. I do not know. The comptroller's report, no doubt, would show that.

Mr. BONYNGE. I thought perhaps you remembered.

Mr. McCORD. No.

Senator HALE. You say one examiner makes all of these examinations?

Mr. McCORD. Yes, sir.

Senator HALE. How many visitations does he make?

Mr. McCORD. Twice a year. That is, the law presumes that it is twice a year; but it is about once every seven or eight months.

Senator HALE. He can not spend much time at each bank, then.

Mr. McCORD. Why not? He only has 89 banks in Georgia.

Senator HALE. But he has four States.

Mr. McCORD. We have 89 in Georgia, and a very few in Florida.

Mr. PADGETT. But the question that presented itself to my mind was this: An examiner now gets \$20 for making an examination on the fee system; and under the salary system, because of the additional time that he would take, in order to make up that salary the assessment would have to be raised, say, to \$50, and the bank would contribute \$50 per examination instead of twenty, as now. I asked whether that was an element that entered into the opposition of the banks to the salary system?

Mr. McCORD. Yes. Now, there is one other point (I do not want to weary you, gentlemen; I am trying to get through as quickly as I can): My institution was the first bank, I believe, to be examined after the comptroller's new rules about calling the directors together went into effect.

The CHAIRMAN. There are 39 banks in Florida, 76 in Alabama, and 30 in Mississippi.

Senator MONEY. Mississippi is not in his territory.

Mr. BONYNGE. What States are in your territory?

The CHAIRMAN. There are 87 in Tennessee.

Senator HALE. There are 89 in Georgia, he said.

Mr. McCORD. I think it is 89.

The CHAIRMAN. No; 95.

Mr. McCORD. Well, there are some new ones that have been transferred from State charters.

The CHAIRMAN. Then there are 2 in Savannah—97 in all.

Mr. BURGESS. What States are in your district?

Mr. McCORD. What States? I never went into that, but it is my impression (and I believe I am right) that it is Tennessee, Alabama, Georgia, and Florida.

Senator HALE. There are 250 banks to be examined by one man.

The CHAIRMAN. Covering this immense territory. He can not do it.

Senator HALE. Yes; 250 banks in this immense territory. That is almost one to every working day of the year.

Senator TELLER. There are 299 banks, all told.

Senator HALE. That is still worse, then.

Mr. McCORD. The possibility is, gentlemen—I am not saying this as an absolute fact, but Alabama may not be in the territory. I can

not say absolutely, but it is my impression that it is. I know that the man from your State (addressing Mr. Padgett, of Tennessee) does the examining for us, and I know he goes to Florida.

Mr. BURGESS. A man could not physically cover that territory in one year, making one visitation, to save his life.

The CHAIRMAN. Probably not.

Senator HALE. He can not do it.

Mr. BURGESS. No.

Mr. McCORD. He is a good one, gentlemen.

Mr. BONYNGE. Has the same examiner been examining your bank for a number of years?

Mr. McCORD. No; he has not. We had Mr. George R. De'Saussure who is now the vice-president of the Barnette National Bank of Jacksonville, Fla., for some two or three years. We then had a Mr. McDonald, who has been intrusted by the Government with the receivership of banks, for which he is particularly fitted. We then had an examiner from North Carolina, who took Mr. McDonald's territory when he was handling receiverships. Now we have Mr. Armstrong.

Senator HALE. How much time does he spend at your bank?

Mr. McCORD. About two days.

Senator HALE. Two days to each visitation?

Mr. McCORD. Yes, sir.

Senator HALE. And he makes two visitations a year?

Mr. McCORD. He can not get through under two days.

Senator HALE. That is four days in a year?

Mr. McCORD. Yes, sir; four days in a year.

Senator HALE. How does he get around to those 250-odd banks?

Mr. McCORD. They take it this way (this is stated by the comptroller here): They map out a list of visitations, and take Atlanta, say, as a basis or center, and they will go up to a country town and drop back to another one, and take in probably two banks in a day, in the case of the smaller banks. Then they will drop out another way and take in two or three banks in one day that way. We never know when they are coming by rotation for this reason, that they might take the Atlanta National Bank, which is here, and then go off and be gone a month, and drop back and take us. But they make Atlanta the center of their visitations.

Mr. BONYNGE. Do you know how much the examiner in your territory receives?

Mr. McCORD. I think, sir, that he gets a total of about \$4,800, which must cover all of his expenses and his salary.

Mr. BONYNGE. You have no doubt that if we were to fix salaries we would fix a salary that would be adequate for your territory?

Mr. McCORD. Oh, I think you would fix a salary that would be adequate for our territory; yes.

Mr. BONYNGE. So that it was not the fact that you feared that the salary would not be adequate for the examiner in your territory that controlled you in opposing this suggestion?

Mr. McCORD. Not at all.

Mr. BONYNGE. Was the controlling element with you the fact that it would result in an additional expense to your bank?

Mr. McCORD. Well, no; I did not object to that. I am speaking to you as a member of the federal legislative committee of the American Bankers' Association, taking in all of the territory.

Mr. BONYNGE. The whole country?

Mr. McCORD. Yes, sir. In my individual case I do not think I would be affected, or but very little affected. In the case of our bank, the directors meet once every week. They are paid for their meetings. Every loan made is read out to them and is approved; or, if any director desires, he dissents, and the dissent is so recorded. Then we have an auditor employed by the board of directors, who comes into the bank at his own will, without the knowledge of the officers, and makes up two complete examinations each year. He and the national-bank examiner endeavor to stay as far apart as possible.

The CHAIRMAN. Is he a chartered accountant?

Mr. McCORD. Yes, sir; he is a chartered accountant.

Senator MONEY. That is in pursuance of a by-law of your bank?

Mr. McCORD. Yes, sir; our directors do that. That man makes a complete list of the condition of the bank, and shows a list to the directory of all lines of credit in the bank in excess of \$5,000.

Senator TELLER. How much time does he take, as a rule?

Mr. McCORD. He takes about a week to make an examination, or nearly so; but I can not say that he utilizes all of his time. He probably has some other job on hand; and he comes in and works half a day or three-quarters of a day, and then goes out, and comes back. But he counts his cash without any notice to anybody. That is the first thing he does; and then he takes the other things as it suits his own convenience.

I believe, now, that I have handled about all of these matters.

In regard to impairment of capital, the onus of putting on the creditor of a bank the necessity of a suit—I think if there is some way to change that, it ought to be done. For instance, a bank withdraws from business, and there is some creditor who is not fully satisfied. Then, under the law, you put him to the necessity of bearing the expense of getting his just rights. And I think the comptroller ought to say when a bank is out of business and when it is in business, and never ought to turn it loose until it has satisfied all creditors, depositors, and everyone else.

Mr. BONYNGE. How would it do, if a bank wanted to go into liquidation, if it should be compelled to apply to the comptroller (as I believe they do now), and, if the comptroller granted the permission, that he would put somebody in charge at that time to assist in the liquidation?

Mr. McCORD. He goes and makes the examination, and stays there and sees that they clear up their depositors.

Mr. BONYNGE. He does that now?

Mr. McCORD. No; he does not. I know of an institution (I will not mention its name, because it is not my province to do it), a little national bank in my State, that decided that they would go out of the national charter and into the state charter. They got enough money to put in to meet the demands of the depositors, and declared themselves in liquidation; and it finally developed that the cashier had made a guaranty on some loan that had never gone onto the bank's books, and now there is a suit pending on that subject. So these questions ought to be determined before things get into that state of affairs.

There is one other point: Several of the gentlemen (two or three of them, prior to me) have referred to the matter of the authority of the stockholders to say who shall have the new stock, and how an increase of stock shall be made, and so on. Each and every one of them has referred to it as the present system of two-thirds voting for an increase. That is the law, requiring two-thirds to vote for an increase. But under the law, unfortunately, it must be sold at par unless they all consent to having it sold otherwise. A disastrous result would come about there, I think, if you permitted two-thirds to say who should have the new stock. One man or one set of men might control two-thirds of the stock of the bank.

Mr. BONYNGE. Pardon me; but I do not think the suggestion was made that two-thirds should say who should have the new stock, but that the two-thirds should fix the price at which the new stock should be given.

Mr. BURGESS. That was it.

Mr. McCORD. I thought that referred to the matter of consolidation.

Mr. BONYNGE. I did not so understand it.

Mr. BURGESS. I did not so understand it, either.

Mr. PUJO. It was the majority to consolidate and the two-thirds to fix the price at which the stock should be sold.

Mr. BONYNGE. That is it—of those now entitled to it.

Mr. McCORD. That is in regard to the consolidation. Now, that possibly might work a hardship unless two-thirds of the shareholders in person should agree, because one man might own two-thirds of the

stock in this bank and have another institution that he wanted to consolidate, and would use his power to consolidate the two institutions.

I thank you, gentlemen, for listening to me.

The CHAIRMAN. Mr. McCord, I have received a letter from the Georgia Bankers' Association saying that they had appointed a committee to cooperate with us, of which Mr. Bloodworth was the chairman.

Mr. McCORD. Yes, sir; Mr. Bloodworth, of the National Bank of Savannah.

The CHAIRMAN. I suppose you are a member of that association?

Mr. McCORD. Yes, sir; I am a member of that association.

The CHAIRMAN. They say they would like to be heard, presumably on the questions we are now discussing.

Mr. McCORD. I presume so, sir; I do not know.

The CHAIRMAN. We will communicate with them.

Mr. McCORD. Yes, sir.

One other thought that entered my mind—and I will close with this, pardon me for mentioning it—was this: The Georgia law which our association got passed the last time requires the directors to have at least four meetings a year. At two of these meetings, once each six months, they must go over all of the assets of the institution, charge off all losses, make a written statement in the minutes, and transmit a copy of that statement to the state bank examiner.

#### STATEMENT OF MR. W. V. COX, PRESIDENT OF THE SECOND NATIONAL BANK, WASHINGTON, D. C.

The CHAIRMAN. Mr. Cox, have you anything that you would like to say to us?

Mr. Cox. Senator, I have nothing especial to say. Living in Washington, I am with you always. But the points that have been brought out I indorse very thoroughly. I do not think we want to have a wholesale amendment of the national banking law. Of course it might be very desirable for administrative purposes to make certain changes that have been suggested; but as a rule the measure, with one or two modifications, can be made practical.

As statements have been given here this afternoon about the workings of different banks, I might say this in regard to the Second National Bank, of which I am president—that we have a finance committee that passes upon all of our discounts, and that examines the bank twice a year, the time of the examination being between the visits of the examiner from the comptroller's office. They are in touch with every feature of the bank. They really, I might say, run

the bank. The officers consult them on all questions excepting those that have been settled on other occasions. In fact, the ideal bank, as depicted yesterday by the comptroller, was the Second National Bank. [Laughter.]

I have nothing else to say, gentlemen.

The CHAIRMAN. That, I think, will close our hearings for the time being.

(After the transaction of some routine business the commission adjourned to meet at the call of the chairman.)

