69TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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THE NATIONAL BANK BILL

JANUARY 12, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. MCFADDEN, from the Committee on Banking and Currency, submitted the following

REPORT

[To accompany H. R. 2]

The Committee on Banking and Currency, to whom was referred the bill (H. R. 2) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, having considered the same, report it back to the House with the recommendation that the bill do pass with the following amendments:

On page 6, line 15, after the word "notes" strike out the comma and insert the words "and/or."

On page 6, line 15, after the word "debentures" strike out the words "and the."

On page 6, line 16, strike out the word "like."

On page 7, line 24, after the word "notes" strike out the comma and insert the words "and/or."

On page 7, line 25, after the word "debentures" strike out the words "and the like."

On page 15, at the end of line 22, strike out the colon and insert a period.

On page 15, beginning with line 23, strike out down to and including line 25 on the same page.

On page 16, beginning with line 9, strike out down to and including line 4 on page 17.

On page 17, line 5, after the abbreviated word "Sec.," strike out "11" and insert "10."

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On page 19, line 2, after the word "insurance," insert a comma and the words "if it is customary to insure such staples,"

On page 21, line 9, after the abbreviated word "Sec.," strike out "12" and insert "11."

On page 21, line 16, after the abbreviated word "Sec.," strike out "13" and insert "12."

On page 23, line 11, after the abbreviated word "Sec.," strike out "14" and insert "13."

On page 24, line 18, after the abbreviated word "Sec.," strike out "15" and insert "14."

On page 25, line 3, after the abbreviated word "Sec.," strike out "16" and insert "15."

On page 26, line 3, after the abbreviated word "Sec.," strike out "17" and insert "16."

This bill is in effect identical with H. R. 8887 as it passed the House in the last Congress, but which failed of passage in the Senate during the closing days of the session.

There are two changes of form in H. R. 2 as compared with H. R. 8887. Section 15 which related to the safe-deposit business and section 17 (b) which related to the investment-securities business have been combined and carried over as section 2 (b). The policy of the bill remains the same but instead of appearing in the bill as new grants of power (as they appeared in H. R. 8887) they now appear as a confirmation and regulation of an existing banking service or business. It is a matter of common knowledge that national banks have been engaged in the investment-securities business and the safe-deposit business for a number of years. In this they have proceeded under their incidental corporate powers to conduct the banking business. Section 2 (b) recognizes this situation but declares a public policy with reference thereto and thereby regulates these activities.

Sections 7, 8, and 9 and the last proviso to section 1, which relate to branch banking, have been clarified as to phraseology by these same sections as drafted in H. R. 2. Some amendments offered upon the floor of the House in the preceding Congress have been coordinated with the text and on the whole the language has been simplified. No change, however, has been made in the policy of the bill in this respect.

Every section of the bill is an amendment of the national bank act itself or of provisions of the Federal reserve act which relate to national banks. The general purpose of the bill is to adjust the national banking laws to modern banking conditions along the lines of conservative banking, and without any deviation from the high standard which has been set by the national banking system. Some of the provisions in the bill extend and enlarge the powers of national banks, but only in the manner in which State banks and trust companies generally have been successfully operating within recent years. Other sections of the bill affirm and regulate practices which have grown up within the national banking system under the exercise of incidental corporate powers. These practices are common to both the State and national banks. Other sections of the bill relate entirely to questions of procedure and not to banking powers. An attempt is made to eliminate some of the rigid formalities in this direction. Several sections of the bill declare a Federal Govern-

mental policy with reference to branch banking. A detailed analysis section by section follows:

Section 1: This section relates to a question of procedure. It adds no new power to the national banks. It provides that a State bank may consolidate directly with a national bank under the national charter. The same result can now be accomplished through the State bank first converting into a national bank and then consolidating with another national bank. Consequently, the effect of the section is to eliminate delay and expense in accomplishing a result which is already provided for by law. At the end of this section is a proviso in conformity with the branch banking policy of the bill, which prohibits any such consolidated bank to retain any branches which the State bank may have had outside of the city limits of the city of the consolidated bank and also prohibits the retention of any branches whatever which may have been established in a State which, at the time of the enactment of the bill, prohibited branches.

Section 2: Section 2 is divided into two subsections (a) and (b).

Subsection (a) is not an enlargement of the powers of a national bank but extends the term of its charter to an indefinite number of years subject to forfeiture of the charter by reason of violation of law, subject to termination by act of Congress at any time and to termination through the appointment of a receiver on account of insolvency. This extension of the life of the charters of national banks is along the line of State legislation for the State banks in Arkansas, Connecticut, Florida, Illinois, Kentucky, Maine, Massachusetts, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. It will be noted that these states include the important cities of New York, Buffalo, Boston, Chicago, St. Paul, Minneapolis, Cleveland, Cincinnati, Louisville, Omaha, Providence, Nashville, Richmond, and a number of other lesser financial centers.

One of the principal advantages of the indeterminate charter is to enable the bank to administer long-term and perpetual trusts. Many of these trusts are in the nature of educational and charitable foundations.

Subsection (b): This subsection is divided into two provisos, each of which recognizes and affirms the existence of a type of business which national banks are now conducting under their incidental charter powers. They may be said to liberalize, in that they confirm the conduct of this character of business; on the other hand, they are restrictive in that the business is confined to definite limits by law.

The first proviso referred to recognizes the right of national banks to continue to engage in the business of buying and selling investment securities but at the same time it makes a general definition of the term "investment securities" and gives the comptroller the authority to make a further definition by regulation. This would give the comptroller the authority to exclude by definition the right of a national bank to purchase undesirable or unsafe investment securities. This provision also limits the total amount which a national bank may take of any one issue of such securities to 25 per cent of its capital and surplus. In this connection it may be noted that this is a business regularly carried on by State banks and trust companies and has

been engaged in by national banks for a number of years. The national banks hold to-day in the neighborhood of $6,000,000,000 of investment securities. The effect of this provision, therefore, is primarily regulative.

The second proviso regulates the safe-deposit business of national banks and prohibits them from investing an amount in excess of 15 per cent of capital and surplus in a corporation organized to conduct a safe-deposit business in connection with the bank. This is a business which is regularly carried on by national banks and the effect of this provision is also primarily regulative.

Section 3: Section 3 is in the nature of a liberalization to the extent that it would permit a national bank to purchase a piece of real estate for expansion of its banking matters without making it mandatory upon the banks to make immediate use of the property for banking purposes. In other words, the section simply strikes out the word "immediate" from the law. The existing law has operated as a hardship upon national banks in this respect.

Section 4: Section 4 provides for the organization of banks in the outlying districts of a city with a capital of $100,000 where the population is in excess of 50,000.

Section 5: Section 5 is also in the nature of a confirmation and regulation of an existing practice. It permits national banks to continue to pay stock dividends but provides a definite procedure and regulations of amount of surplus which the bank must have at the time of the increase.

Section 6: This section does not add any new charter powers, but is simply a clarification of an ambiguous provision of law relating to the status of the chairman of the board of directors. It provides that the president of the bank shall be a member of the board of directors but not necessarily chairman thereof.

Section 7: This section is a restriction upon branch banking. It is a reenactment of existing law which permits a State bank to convert into a national bank and to retain all of the branches which the State bank might have had regardless of their location, but restricts the branches which may be retained solely to those which the State bank may have had within the limits of the city in which the State bank is located in a State which at the time of the enactment of the bill permitted branch banking. Any branch which may have been established even within the city limits under State authority given after the passage of this bill would have to be reliquished, as well as any branches which may have been established on the outside of city limits under authority of State laws previous to the passage of the bill. This section is in conformity with the branch banking policy of the bill which would confine all branch banking within the national banking system to city limits and to prohibit national banks from establishing any branches in States which prohibit State banks from exercising this power.

Section 8: This section recognizes the right of national banks to establish branches within those cities in which State banks have that privilege at the time of the passage of the bill. Should a nonbranch-banking State in the future change its policy and permit the State banks to have branches the national banks would be prohibited from exercising similar powers. This section also as a practical

matter limits the branch banking activities of national banks to cities having a population in excess of 100,000.

Section 9: This section makes the same requirements as to State member banks in the Federal reserve system which section 8 makes of the national banks with reference to branch-banking. Under it a State member bank would be restricted, so far as future operations are concerned, to the establishment of branches within the city limits in which the parent bank is located in those States which permitted branch banking at the time of the passage of this bill. If the State changes its branch-banking policy and permitted the State banks to have branches, State member banks of the Federal reserve system could not exercise such powers within the Federal reserve system. This section further prohibits any nonmember State bank from bringing into the Federal reserve system branches which have been established on the outside of city limits.

Section 10: This section is designed to restate and clarify section 5200 of the Revised Statutes which governs the amount of money which a national bank may lend to any one person. The existing law is composed of the original provisions of 1863 with a number of amendments and provises added from time to time and stands in need of clarification to clear up certain ambiguities. It is not the purpose of this section to make any substantial liberalization or restriction upon the business of national banks and the language of the bill is therefore substantially identical in effect with that of the existing law.

Subsection 4 is in the nature of a restriction upon the discount of noncommercial paper. Through a loophole in the existing law there is at present no limit upon the amount of this type of paper which a national bank may discount since the limitation of the law runs against the maker only and not against the indorser. This subsection is designed to cure this defect in the law.

Under subsection 6 there is an enlargement of the power of national banks in the matter of loans upon the security of nonperishable staple commodities stored in bonded warehouses. This section would permit a gradual increase of the loan up to an amount not exceeding 50 per cent of the capital and surplus of the bank provided each increase in the amount of the loan shall be accompanied by an increase in the value of the commodity collateral in proportion to the face amount of the additional loan.

Section 11: This section is designed to cure a typographical error in the agricultural credits act of 1923, and relates to the total liabilities of national banking associations.

Section 12: Section 12 is designed to clarify and correct a criminal provision in section 5208, Revised Statutes, relating to the overcertification of checks.

Section 13: Section 13 relates to a matter of procedure and gives the board of directors of a national bank the right to permit a junior officer to certify reports to the comptroller in the absence of the president and cashier.

Section 14: This section is in the nature of a liberalization for both State and national banks in that it empowers the Federal reserve banks to rediscount for any member bank an amount of eligible paper equal to the amount which a national bank could lawfully discount for its customers. Under the existing law a Federal

reserve bank can only discount an amount of eligible paper of any one borrower not exceeding 10 per cent of the capital and surplus of the member bank. This section does not change the character of classes of eligible paper. If the paper is already eligible for discount and the national bank act considers it safe for a national bank to take it in certain stated amounts, it is considered by this section to be safe for the Federal reserve banks to rediscount it in the same amounts. The paper itself is considered liquid and in addition has the indorsement of the member bank upon it when presented for rediscount.

Section 15: This section simply adds an additional criminal provision providing for the punishment of a national-bank examiner who commits a theft from a bank examined by him.

Section 16: This section is a restatement of the existing law relative to loans by national banks upon the security of real estate. It broadens the powers of national banks as to the time limit of the loans upon city property but at the same time makes restrictions by way of definitions. At the present time a national-bank may make a loan upon first mortgage upon city property for a period not exceeding one year. This section increases this period to five years as a maximum. At the same time it defines a real-estate loan to be one with respect to which the bank takes the entire obligation at the time of making the loan. The purpose of this definition is to prevent the possibility of a bank from purchasing real-estate bonds under the guise of making loans upon the security of real estate. Such real-estate bonds as may be purchased by a bank (should the comptroller determine that any such bonds are "investment securities") would be acquired under section 2 (b) of the bill.

The State banks and trust companies are authorized to make long-time loans upon the security of first mortgage upon city real estate. National banks, by being limited to a one-year period, have found themselves handicapped in meeting the demands of their customers in this respect. The section limits all such loans to an amount not exceeding one-half of the savings deposits in the bank, and thereby relates the real estate loan business to savings deposits. This is a logical connection. National banks have on deposit about $5,000,000,000 of savings deposits from about 11,000,000 depositors. This constitutes a large proportion of the entire savings business in the United States, and it has become necessary to recognize the right of a national bank with certain definite restrictions to use these funds in the same general manner in which the State banks and trust companies are using them, which includes the right to make loans upon city property, as provided above.

The enactment of this bill into law will put new life into the national banking system. The cumulative effect of its provisions will produce a situation in the Federal reserve system where the rights of the national banks will be more nearly on a par with those of the State member banks. When the Federal reserve act was amended to let State banks come into the Federal reserve system with their full charter powers, the national banks, operating under the old national bank act of 1864, found themselves, as compulsory members of the Federal reserve system, placed at a considerable disadvantage. Many of these State banks are operating under modern banking codes. The amendments which had heretofore

been made to the national bank act were not sufficient to enable the national banks to compete on terms of equality with such State member banks, while at the same time they were compelled by law to bear the chief burden in supporting the Federal reserve system.

The bill recognizes the absolute necessity of taking legislative action with reference to the branch banking controversy. The present situation is intolerable to the national banking system. The bill proposes the only practicable solution by stopping the further extension of state-wide branch banking in the Federal reserve system by State member banks and by permitting national banks to have branches in those cities where State banks are allowed to have them under State laws.

Your committee feels that the need for this legislation is even more urgent than it was during the last Congress and respectfully urges its passage.

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