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BANKING ACT OF 1935

MAY 13 (calendar day JULY 2), 1935.—Ordered to be printed

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

REPORT

[To accompany H. R. 7617]

The Committee on Banking and Currency, to whom was referred the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, having considered the same, report favorably thereon with an amendment in the nature of a substitute, and as amended recommend that the bill do pass.

GENERAL STATEMENT

The provisions of title I of the bill relating to Federal deposit insurance do not differ in many respects from those contained in title I of the bill as it passed the House, and the material changes in substance will be noted in the attached statement in explanation of the various provisions of the bill as reported by the committee. The form in which the title appears in the amendment recommended by the committee is substantially different, however, from that in which it passed the House, and this is accounted for by the fact that the committee recommendation rewrites section 12B of the Federal Reserve Act (which covers the entire subject of Federal deposit insurance) and includes the provisions of existing law which were not affected by the specific amendments made to various subsections by the House bill. It is believed that the form recommended by the committee is preferable in that all of the provisions of the amended section will be found in one place when the amended section takes effect.

Title II of the House bill has been altered considerably and the differences between the proposals contained in the House bill and in the amendments recommended by the committee will be indicated in the attached statement.

Many of the provisions of title III of the House bill are the same as those contained in the corrresponding sections of the Senate amendment, and the changes that have been made by way of addition or otherwise will also be indicated in the following section-by-section analysis of that title.

TITLE I. FEDERAL DEPOSIT INSURANCE

(The following references in this title are to the various subsections of section 12B of the Federal Reserve Act as it is proposed to be amended by the reported bill.)

Subsection (a): The provisions of existing law which relate to the authority of the Federal Deposit Insurance Corporation to purchase, hold, and liquidate assets of closed national and State member banks are eliminated from this subsection, but the duty and power of the Corporation to insure deposits in banks are provided for, with an inclusive clause added to permit the Corporation to exercise all the powers granted by the provisions of the section.

Subsection (b): To subsection (b) there has been added a provision to make the Acting Comptroller of the Currency a member of the board of directors of the Corporation in the event of a vacancy in the office of the Comptroller and, in the event of a vacancy in the office of chairman of the board of directors, pending the appointment of his successor, the Comptroller of the Currency is required to act as chairman. Provision is further made rendering the Comptroller of the Currency and appointive members of the board of directors ineligible during the time they are in office and for 2 years thereafter to hold any office, position, or employment in any insured bank, but an exception is made in the case of a director who has served the full term for which he was appointed. The directors are further prohibited from being officers or directors of any banking institution, trust company, or Federal Reserve bank and from holding stock in any banking institution or trust company, and are required to certify compliance with such requirements. Members serving at the effective date of the act are excepted from these disabilities and prohibitions.

Subsection (c) defines the following terms, each definition being stated in separate numbered paragraphs: State bank, State member bank, district bank, national member bank, national nonmember bank, mutual savings bank, savings bank, insured bank, new bank, receiver, board of directors, deposit, insured deposit, transferred deposit, and effective date. The definitions are made for the purpose of clarifying the meaning wherever such terms are used throughout the bill. The definitions of the terms "State bank", "national member bank", and "national nonmember bank", and the appropriate use of these terms elsewhere in the act make eligible for insurance banking institutions of the types defined, in Hawaii, Alaska, Puerto Rico, and the Virgin Islands. The bill, as reported, adds "Puerto Rico" and the "Virgin Islands" to the Territories as enumerated in the bill as it passed the House. In defining the term "deposit", the definition contained in the bill as it passed the House has been similarly extended to cover deposits in Puerto Rico and the Virgin Islands and a proviso has been added which makes the insurance of deposits in branches located in Hawaii, Alaska, Puerto Rico, or the Virgin Islands optional. The definition of the term "savings bank" as contained in the bill as it passed the House is altered so as to provide that, in order to come within the definition, banks must subject themselves to regulation by the Corporation prohibiting withdrawal by checking except in cases where such withdrawal is now permitted by law from specifically designated accounts totaling not more than 15 percent of the banks' total deposits.

Subsection (d) incorporates the provisions of the existing law with reference to the capitalization of the Corporation. It strikes out the provisions classifying the stock into "A stock" and "B stock" and eliminates the requirements for banks to subscribe for stock in the Corporation and for the payment of dividends on such stock. It also provides that the stock shall be without nominal or par value and that the consideration received for the capital stock shall be allocated to capital and to surplus.

Subsection (e): In lieu of the requirements of the existing law for application for insurance, for subscription for class A stock of the Corporation by banks, and for certification of member banks as to solvency by the Comptroller of the Currency, in the case of national banks, and by the Board of Governors of the Federal Reserve System (which, under title II of the bill, is the new name for the Federal Reserve Board), in the case of State member banks, it is provided for the continuation of existing insurance on a permanent basis by member banks which are now insured without further application or approval. Member banks subsequently authorized to commence or resume business are to be insured upon certification by the Comptroller of the Currency, in the case of national member banks, and by the Board of Governors of the Federal Reserve System, in the case of State member banks.

Subsection (f): In lieu of the provisions of the existing law with respect to insuring State banks, trust companies, and mutual savings banks pending application for membership in the Federal Reserve System, this subsection of the reported bill provides for continuing the insurance of nonmember banks which are members of the Temporary Federal Deposit Insurance Fund or the Fund for Mutuals. The period for insurance in the Temporary Fund and the Fund for Mutuals expires under the existing law (as extended by S. J. Res. No. 152, approved June 28, 1935) on August 31, 1935, and provision is made that banks now members of the Temporary Fund or the Fund for Mutuals and which may elect not to participate in the permanent plan will be insured only until August 31, 1935. The notice provisions with respect to withdrawal which are contained in the bill as it passed the House are likewise modified accordingly. Further provision is made for admitting to the status of insured banks national nonmember and State nonmember banks which apply for insurance after the date of enactment of the Banking Act of 1935.

Subsection (g) prescribes the contents of the certificate required to support an application by a bank for an insured status. The bill as reported enlarges upon the requirements in the bill as it passed the House by including other factors which are deemed proper for consideration in determining whether the applying bank should be insured. These factors are similar to those which are considered by the Comptroller of the Currency in authorizing national banks to commence business.

Subsection (h) contains the provisions with respect to the obligation of the banks for assessments. The assessment rate is fixed at one-twelfth of 1 percent per annum of the deposit liability of each bank in lieu of one-eighth of 1 percent as contained in the bill as it passed the House. The provision for such assessments is in lieu of the provisions of existing law requiring a subscription by each bank to stock of the Corporation in an amount equal to one-half of 1

percent of the deposit liability of the bank with an added liability for such future assessments as may be needed to meet losses. Semi-annual assessments are provided for by applying one-half the annual rate to the average deposit liability after deducting "float" or uncollected items which may have been credited to deposit accounts. The insured banks are not liable beyond the assessments specifically provided for. The Corporation is authorized to set up a special fund for mutual savings banks and, in the event such fund be set up, a lower rate is permissible for such banks, if in the discretion of the board of directors it is justified.

Provision is made for automatically terminating the assessments upon the banks when the value of the assets of the Corporation, as shown by its books, exceeds its liabilities by $500,000,000 or more, and for resuming the assessments when such assets do not exceed $425,000,000. There was no corresponding provision in the bill as it passed the House.

A provision is also included for crediting to assessment payments the refunds which will be due to the banks which are members of the Temporary Fund or the Fund for Mutuals. Remedies for collection are also outlined and suitable penalties for noncompliance are prescribed. The inclusion of provisions with respect to automatic termination of liability of the banks for assessments when the Corporation reaches the prescribed asset position and with respect to the method of determining the average deposits for the purpose of applying the rate made it necessary to rewrite the assessment provisions contained in the bill as it passed the House.

Provision is also made in this subsection for the insurance of uninvested trust funds.

Subsection (i): In lieu of the provisions of the existing law governing the cancelation of the class A stock of banks which became insolvent or ceased to be members of the Federal Reserve System, this subsection deals with the subject of the termination of insurance of an insured bank.

The right of voluntary withdrawal from insurance is given only to nonmember banks, which must give 90 days' notice to the Corporation.

The insured status of member and nonmember banks may be terminated by the board of directors of the Corporation for cause, which includes continuation of unsafe or unsound practices in conducting the business of the bank or repeated violation of any provision of law to which the bank is subject.

Before the board of directors of the Corporation may proceed to terminate the insurance of any bank, it must give notice of the violations complained of to the authority having supervision of the bank, including the Board of Governors of the Federal Reserve System, in the case of State member banks, for the purpose of securing a correction of the practices complained of where possible. A period of 120 days is allowed for correcting such practices, and unless the correction is effected within this period, the board of directors of the Corporation gives 30 days' notice to the bank, fixing a time and place for a hearing. At the hearing the bank may appear and present evidence. If the board of directors of the Corporation finds the charges to be sustained, it may order the insured status of the bank terminated. Notice of termination is required to be given to depositors. Instead of requiring banks to give notice of the termination of insurance to "its depositors" as in the bill as it passed the House, banks are

required to give notice to each depositor at his last address of record on the books of the bank.

For a period of 2 years after the termination of the insured status of any bank, its old deposits continue to be insured, and the bank is required to pay assessments and otherwise to be subject to the obligations of an insured bank for such period.

Whenever the insured status of a member bank is terminated, the Board of Governors of the Federal Reserve System is required to terminate its membership in the Federal Reserve System. This corresponds to the provision in the present law which is applicable to member banks which do not purchase class A stock of the Corporation.

Provision is also made for termination of the insured status of a bank which sells its assets to another bank which assumes its liabilities, upon satisfying the Corporation that its liabilities have been so assumed and upon giving notice to its depositors. Insurance of its deposits terminates at the end of 6 months from the date such assumption takes effect.

Subsection (j): The existing provisions of this subsection (relating to the powers of the Corporation) are not amended or revised. However, new matter is added giving jurisdiction, in the case of suits of a civil nature to which the Corporation is a party, to courts having jurisdiction of suits arising under the laws of the United States. It is provided that any suit to which the Corporation is a party in its capacity as receiver of a State bank and which involves only rights to be determined according to State laws shall not be deemed to arise under the laws of the United States. Provisions are also included relieving the Corporation from attachment and execution before final judgment and for appointment of agents in various jurisdictions upon whom service of process may be made. The powers to make examinations and to act as receiver are also given to the Corporation, and the provisions relating to the authority of the Corporation to make rules and regulations necessary to carry out provisions of the act are transferred from subsection (l) of the existing law to this subsection.

Subsection (k): Subsection (k) of the existing law is retained. It provides for the management of the Corporation by the board of directors and makes the facilities of certain governmental departments available. A new paragraph is added providing for the appointment of examiners and claim agents and fixing their powers. This provision is substantially similar to section 5240 of the Revised Statutes which deals with the appointment of national-bank examiners. The number of examinations to be made is left to the discretion of the board of directors. The right of examination is confined to nonmember banks, except that where some special purpose may require, the examiners of the Corporation may examine national or State member banks with the approval of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System.

Nonmember banks are required to make reports of condition to the Corporation on call. Such reports must be published, and a penalty is prescribed for failure to make or publish the reports.

Subsection (l): This subsection contains provisions dealing with the obligation of the Corporation to depositors of closed insured banks and much of the substance of the existing law is retained.

The subsection provides for consolidating the present Temporary Federal Deposit Insurance Fund and the Fund for Mutuals into the

permanent insurance fund without prejudice to the rights acquired under the present law. It provides that the Corporation shall insure the deposits of all insured banks from the effective date of the act. A new provision is added, which was not contained in the bill as it passed the House, limiting the insurance coverage to unrestricted deposits, unless restrictions or deferments be modified with the consent of the Corporation.

The maximum amount of the insured deposit of any depositor is fixed at $5,000.

It is also provided that an insured bank shall be deemed to be closed on account of inability to meet the demands of its depositors in any case where it is closed for liquidation without adequate provision for payment of its depositors. The language used in the existing law fixing the obligation of the Corporation to pay is closely followed in view of the fact that a number of States have enacted legislation recognizing the subrogation rights of the Corporation predicated upon such language.

The existing law is also followed in providing for the appointment of the Corporation as receiver of insured national banks, and insured member banks of the Federal Reserve System located in the District of Columbia, which are closed on account of inability to meet the demands of their depositors.

It is further provided that the Corporation may pay the insured deposits of the closed insured bank either (1) by making available a transferred deposit of an equivalent amount in a new national bank or another insured bank; or (2) in accordance with any other procedure adopted by the board of directors of the Corporation. This provision is more flexible than the existing law which does not permit payment otherwise than by organizing a new national bank. The Corporation is given the right to require the final determination of a court of competent jurisdiction as to the validity of a claim where it is not satisfied that the same should be allowed and paid.

The right of the Corporation to be subrogated to the rights of depositors paid by it is also expressed. In the existing law the Corporation is subrogated to the entire claim of a depositor having more than $5,000 on deposit, and it is given the right to collect dividends up to $5,000, after which the residue is paid over to the depositor. Under the proposed amendment to the law, the subrogation right of the Corporation would extend only to that portion of the deposits paid by it.

The bill also makes the organization of a new national bank optional with the Corporation instead of mandatory, as in existing law. It is required to be organized only where it is advisable and in the interest of the depositors in the closed bank or the public. The provisions dealing with the manner of organizing the new bank and limiting the character of business which may be transacted by it are substantially a restatement of the existing law. They differ, however, in the following respects: (*a*) The new bank is given the right to invest in securities guaranteed by the United States; (*b*) the new bank may be permitted to transact other business than that specified in the statute if authorized by the Comptroller of the Currency; and (*c*) the new bank, while uncapitalized, is expressly exempted from all taxation.

Administrative provisions are incorporated in this subsection governing the payment of insured deposits and expenses of the new bank after its organization.

The provisions of the existing law authorizing the Corporation to sell the capital stock of the new bank are retained in substance.

Authority is given for moving the place of business of the new banks to central locations or to Washington, D. C., for the purpose of winding up their affairs, and a procedure is outlined for terminating the corporate existence of the banks where they are not capitalized.

Subsection (m): This subsection contains provisions to facilitate the administration of receiverships where the Corporation is receiver, and to relieve the Corporation of its liability as insurer where payment is made, and where claims for payment are not made, within 18 months. The Corporation is also protected against added liability where a depositor attempts to assign portions of his account to other persons in order to secure greater protection than $5,000, and it is authorized to withhold such amounts as may be necessary to satisfy claims for stockholder's liability and any other liability of a depositor to the bank which is not subject to offset.

Subsection (n): This subsection contains the provisions of the existing law relating to investment of moneys of the Corporation which were formerly contained in the last paragraph of subsection (l). The existing law is changed only to the extent of allowing the moneys of the Corporation to be invested in securities guaranteed as to principal and interest by the Government of the United States, as well as in securities of the Government of the United States. The subsection also contains the provisions of the old subsection (m) which provided that the Corporation should not be prevented from making loans to closed national or State member banks or from entering into negotiations to secure the reopening of such banks. It also contains subsection (n) of the existing law, amended so as to extend the authority and powers of the Corporation with reference to loans upon and purchase of assets to all insured banks, rather than to member banks only.

A new provision is added giving the Corporation the right, until July 1, 1936, to make loans or purchase assets when such action will reduce the risk or avert a threatened loss to the Corporation and facilitate a merger or consolidation of insured banks. The Corporation may, for the same purpose, guarantee against loss other banks which assume the liabilities and purchase the assets of insured banks.

Subsection (o): Paragraph (1) of this subsection corresponds to subsection (o) of the existing law which relates to the issuance of notes, debentures, bonds, and other obligations of the Corporation. However, since the class A stock of the Corporation has been eliminated by the provisions of the bill, the limitation upon the aggregate amount of such obligations that may be outstanding at any one time is now fixed at three times the amounts received by the Corporation in payment of its capital stock and the first two semiannual assessments upon insured banks, instead of at three times the capital of the Corporation.

The provisions contained in the bill as it passed the House which authorized a Government guaranty of such of the obligations of the Corporation as might be issued with the approval of the Secretary of the Treasury have been eliminated by the committee.

Paragraph (2) of this subsection authorizes the Secretary of the Treasury in his discretion to purchase any of the obligations of the Corporation. In addition, it is provided that if the Reconstruction Finance Corporation should fail for any reason to purchase obligations of the Federal Deposit Insurance Corporation, which it is required to

purchase, the Secretary of the Treasury is authorized and directed to purchase an amount equal thereto. The latter provision was not contained in the bill as it passed the House.

The direction to the Secretary of the Treasury to market the obligations of the Corporation at its request, which was contained in the bill as it passed the House, has been eliminated by the committee.

Subsections (p), (q), and (r) of the existing law are incorporated in the section as rewritten without change in any respect. These subsections provide for the exemption from taxation of the obligations of the Corporation and of its franchises, etc., authorize the Secretary of the Treasury to prepare suitable forms of notes, debentures, bonds, or other obligations which the Corporation may need, and prescribe the duty of the Corporation to make an annual report to Congress of its operations.

Subsection (s) of the existing law, which prescribes penalties for fraudulent impositions upon the Corporation is amended to cover false representations for the purpose of obtaining payment of insured deposits or other claims.

Subsections (t) and (u) are incorporated in the revised section 12B without amendment. These are likewise penal provisions protecting against forgeries, counterfeiting, embezzlements, false entries, theft, and the like.

Subsection (v): The existing subsection (v) prohibits unauthorized use of the words "Federal Deposit Insurance Corporation" and prohibits false advertisements of insurance. The subsection is amended by substituting for "class A stockholder" the term "insured bank." To the existing requirement that every insured bank shall display signs indicating that its deposits are insured is added the requirement that the bank shall include a statement to like effect in advertisements relating to deposits.

The provision of subsection (l) of existing law which prescribes the penalties incurred by directors or officers who participate in the declaration of dividends while a bank is in default in the payment of an assessment due the Corporation and which was omitted from the bill as it passed the House has been restored and added to this subsection.

The consent of the Corporation is required where a State nonmember insured bank consolidates or merges with a noninsured bank, and also where such an insured bank reduces the amount of or retires any part of its common or preferred capital stock or retires any part of its capital notes or debentures. The consent of the Corporation is also required for such an insured bank to establish or operate any branch or to move a branch from one location to another.

It is also provided that the Corporation may require insured banks to maintain adequate protection against burglary, defalcation, and other similar insurable losses.

The Corporation is also given the right to publish any part of a report of examination, after 90 days' notice to the bank, which relates to recommendations of the Corporation that are not complied with after 120 days have elapsed from the time the bank is given written notice of such recommendations. In the bill as it passed the House it was provided that any part of such a report might be published.

Under the bill as it passed the House, the board of directors was authorized to regulate the rates of interest payable on deposits in insured banks which are not members of the Federal Reserve System.

This would have subjected insured nonmember banks to regulations promulgated by the Federal Deposit Insurance Corporation on principles similar to the regulations prescribed by the Federal Reserve Board governing member banks. The committee has eliminated this provision and substituted therefor a provision making such banks subject to all the provisions of the Federal Reserve Act and regulations thereunder relating to the withdrawal and payment of deposits, and interest on deposits, which are applicable to member banks. Exceptions are made, however, in the case of savings banks, mutual savings banks, and Morris Plan banks.

Subsections (w) and (x) of the existing law are not changed in any respect. They make applicable to contracts or agreements with the Corporation certain enumerated provisions of the Criminal Code and extend to the Corporation the facilities of the secret service division of the Treasury Department.

Subsection (y) of the existing law which relates to the Temporary Federal Deposit Insurance Fund and the Fund for Mutuals (except the last paragraph) is eliminated. Subsection (y) of the reported bill requires that every State bank organized after the date of enactment of the Banking Act of 1935 must become a member of the Federal Reserve System by July 1, 1937, in order to be an insured bank or to continue to have its deposits insured. It is also provided that any State bank organized on or before the effective date of the Act and which shall have average deposits of $1,000,000 or more during the calendar year 1936 or any succeeding calendar year shall be required to become a member of the Federal Reserve System or cease to have its deposits insured after July 1 of the year following any such calendar year during which it shall have had such amount of average deposits. Exceptions are made in the case of savings banks, mutual savings banks, Morris Plan banks or other incorporated banking institutions engaged only in a business similar to that transacted by Morris Plan banks, State trust companies doing no commercial banking business, and banks located in Hawaii, Alaska, Puerto Rico, and the Virgin Islands. There was no such restriction in the bill as it passed the House with respect to eligibility for insurance after July 1, 1937, in the case of nonmember State banks.

The existing provisions of the last paragraph of subsection (y) which declare that it is not the purpose of the section to discriminate in favor of national or member banks but to provide all banks with the same opportunity to obtain and enjoy the benefits of the section are retained.

Subsection (z) contains a separability clause which is applicable to the provisions of the section limiting the amount of insurance that may be obtained by any depositor in an insured bank. When the broad purposes of the section are considered, namely, the insurance of bank deposits, it is seen that the limitation upon the amount of insurance is not an essential feature, and it is deemed appropriate to declare that the provisions imposing such limitation are subservient to the general plan of insurance and not an indispensable part of it.

TITLE II—AMENDMENTS TO THE FEDERAL RESERVE ACT

Section 201 of the bill as it passed the House amended section 4 of the Federal Reserve Act so as to combine the offices of chairman of the board of directors and Governor of the Federal Reserve banks

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and to provide for the appointment of the Governor to be made annually by the directors of each bank subject to approval every 3 years by the Federal Reserve Board. The Governor would be the chief executive officer of the bank, chairman of its board of directors and a class C director. The Vice Governor would be Governor in his absence. It was also provided that the offices of Federal Reserve agent and assistant Federal Reserve agent would be abolished and that all duties prescribed by law for the Federal Reserve agent would be performed by the Governor of the bank or such person as he might designate. This section of the bill as it passed the House has been eliminated by the committee.

Section 201 of the bill as reported by the committee amends the provisions of section 4 of the Federal Reserve Act relating to appointment of officers and employees of the Federal Reserve banks so as to provide for the appointment of a president and vice president for each such bank. It is provided that the president shall be the chief executive officer of the bank and shall be appointed by the board of directors with the approval of the Board of Governors of the Federal Reserve System (which under section 202 of the bill as reported is the new name for the Federal Reserve Board) for a term of 5 years, and all other executive officers and all employees of the bank are to be directly responsible to him. The vice president of the bank is to be appointed in the same manner and for the same term as the president and is to serve as chief executive officer of the bank in the absence or disability of the president or during a vacancy in the office of president. Whenever a vacancy occurs in either office it is to be filled in the same manner as provided for in the case of original appointments and the person so appointed is to hold office until the expiration of the term of his predecessor.

Section 202 of the bill as it passed the House contained a provision authorizing the Federal Reserve Board to waive in whole or in part the requirements of section 9 of the Federal Reserve Act relating to admission to membership of any nonmember bank, which at the time of its application for membership is insured by the Federal Deposit Insurance Corporation under section 12B of the Federal Reserve Act. The purpose of this provision was to facilitate the admission of small banks into the Federal Reserve System, but since banks with average deposits of less than $1,000,000 are not required, under title I of the bill as reported by the committee, to become members of the Federal Reserve System in order to continue their status as insured banks after July 1, 1937, this section has been omitted by the committee.

Section 203 of the bill as it passed the House changed the qualifications of members of the Federal Reserve Board by striking out the requirement of existing law that in selecting such members the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests and geographical divisions of the country, and substituting a requirement that they should be well qualified by education or experience, or both, to participate in the formulation of nationa' economic and monetary policies. The requirement of existing law that not more than one member of the Board should be selected from any one Federal Reserve district, was preserved for all appointive members of the Board except the governor. It was also provided that the governor and vice governor

of the Board should serve as such until the further order of the President, and that if the governor's designation as such be terminated he might continue to serve as a member of the Board for the remainder of his term. This section of the bill as it passed the House was eliminated in view of the changes in the organization and membership of the Board provided for in section 202 as reported.

Section 202 of the bill as reported by the committee provides for changing the name of the Federal Reserve Board to the Board of Governors of the Federal Reserve System, and for changing the name of the governor and vice governor of the Federal Reserve Board to chairman and vice chairman, respectively. It is provided that the Board of Governors of the Federal Reserve System shall be composed of seven members to be appointed by the President, by and with the advice and consent of the Senate, after the date of enactment of the act, for terms of 14 years, but that the present appointive members of the Federal Reserve Board and the Secretary of the Treasury and the Comptroller of the Currency may continue to serve as such members for not longer than 90 days after such date. The provision of existing law with respect to qualifications of members of the new Board is retained, namely, that the President shall have due regard for a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country, and a further requirement is added that at least two of such members shall be persons of tested banking experience. The annual salary of members of the Board is fixed at $15,000, and it is provided that not more than four of the members of the Board shall be members of the same political party. The successors to the present members of the Board are to be appointed in such manner that the term of not more than one member will expire in any 2-year period, and their successors will hold office for a term of 14 years, unless sooner removed for cause by the President. The President is also to designate the chairman and vice chairman of the Board to serve as such for terms of 4 years. It is also provided that any person appointed as a member of the Board after the date of enactment of the act shall not be eligible for reappointment as such member after he shall have served a full term of 14 years.

A provision is also included in this section providing that the Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and the Federal Open Market Committee upon all questions of policy relating to open-market operations, together with the votes taken and the reasons underlying the action of the Board and the Committee in each instance. A similar record is to be kept by the Board with respect to all questions of policy determined by it, and a copy of such records is to be included in the annual report of the Board to the Congress.

Section 203 of the bill as reported reenacts and makes permanent law the provisions of section 10b of the Federal Reserve Act which expired on March 3, 1935, and which will enable any member bank that has no eligible and acceptable assets to enable it to obtain adequate credit accommodations through rediscounting at a Federal Reserve bank, or any other method provided by the Federal Reserve Act (other than that provided by sec. 10 (a)), to apply to the Federal Reserve bank, under rules and regulations prescribed by the Board, for advances on its time or demand notes secured to the satisfaction

of the bank. The provision that each such note shall bear interest at a rate not less than 1 percent per annum higher than the highest discount rate in effect at the Federal Reserve bank at the date of the note, is also retained, but the limitation of existing law that such advances may be made only "in exceptional and exigent circumstances" is eliminated.

Section 204 of the bill as it passed the House authorized the Federal Reserve Board to assign to designated members of the Board or its representatives under rules and regulations prescribed by the Board the performance of specific duties and functions, not including, however, the determination of any national or System policies, or any power to make rules and regulations, or any power which is required to be exercised by specified members of the Board.

There was also a provision in this section stating that it shall be the duty of the Board to exercise its powers

in such manner as to promote conditions conducive to business stability and to mitigate by its influence unstabilizing fluctuations in the general level of production, trade, prices, and employment, so far as may be possible within the scope of monetary action and credit administration.

These provisions have been omitted from the bill reported by the committee.

Section 205 of the bill as it passed the House provided for an Open Market Advisory Committee, consisting of five representatives of the Federal Reserve banks, to take the place of the Federal Open Market Committee provided for in existing law. The Advisory Committee was authorized to consult and advise with and make recommendations to the Federal Reserve Board. It had no vote in determining open-market policies, but the Board was required to consult the Committee before making any changes on its own initiative in open-market policies, in rates of interest and discount to be charged by Federal Reserve banks, or in the reserve balances required to be maintained by member banks. In lieu of this provision, the committee in section 204 of the reported bill amends existing law so as to provide for a Federal Open Market Committee, consisting of the members of the Board of Governors of the Federal Reserve System, and five representatives of the Federal Reserve banks to be selected annually. Four of such representatives are to be elected by the boards of directors of the Federal Reserve banks by regions, that is to say, 1 to represent the Boston, New York, and Philadelphia banks, 1 to represent the Cleveland, Chicago, and St. Louis banks, 1 to represent the Richmond, Atlanta, and Dallas banks, and 1 to represent the Minneapolis, Kansas City, and San Francisco banks. The fifth representative, who is to be chosen from the country at large, is to be elected annually by the presidents of the 12 Federal Reserve banks. An alternate to serve in the absence of each such representative is to be elected annually in the same manner.

It is provided that no Federal Reserve bank shall engage or decline to engage in open-market operations under section 14 of the Federal Reserve Act, except in accordance with regulations adopted by the Committee. The provision of existing law which allowed a Federal Reserve bank to decline to participate in open-market operations recommended and approved by the Committee, upon filing a notice of its decision within 30 days, is eliminated. The provision of existing law is retained which states that the time, character, and volume of all

purchases and sales of paper described in section 14 of the Federal Reserve Act as eligible for open-market operations, shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

The provision of section 206 of the bill as it passed the House providing that upon the endorsement of any member bank, subject to such regulations as to maturities and other matters as the Federal Reserve Board might prescribe, any Federal Reserve bank might discount any commercial, agricultural, or industrial paper and make advances to such bank on its promissory notes secured by any sound assets of the bank, is eliminated.

Section 207 of the bill as it passed the House amended section 14 of the Federal Reserve Act, so as to make eligible for purchase by Federal Reserve banks without regard to maturities direct obligations of the United States or obligations which are fully guaranteed by the United States as to principal and interest. This provision has been modified by secton 205 of the reported bill so as to provide that direct obligations of the United States and such guaranteed obligations may be purchased only in the open market. Section 205 also amends existing law with respect to rates of discount to be established by the Federal Reserve banks, providing that such rate shall be established every 14 days or oftener if deemed necessary by the Board of Governors of the Federal Reserve System.

Section 208 of the bill as it passed the House amended section 16 of the Federal Reserve Act so as to repeal the requirements that Federal Reserve notes be secured at all times by the specific pledge of collateral, and it also eliminated the provision of existing law prohibiting a Federal Reserve bank from paying out the notes of any such bank and made certain technical changes with respect to issue, redemption, and retirement of Federal Reserve notes. It was provided that such notes should be obligations of the United States and legal tender for all purposes, should be secured by a first and paramount lien on all the assets of the issuing bank, and should be issued and retired under such rules and regulations as the Federal Reserve Board might prescribe. This provision of the bill has been omitted by the committee.

Section 209 of the bill as it passed the House authorized the Federal Reserve Board, in order to prevent injurious credit expansion or contraction, to change by regulation the requirements as to reserves to be maintained against demand or time deposits or both by member banks in reserve and central reserve cities or by member banks not in reserve or central reserve cities or by all member banks. This provision has been modified by section 206 of the bill as reported by the committee so as to provide that the power to change the requirements as to reserves be conditioned upon an affirmative vote of not less than five members of the Board of Governors of the Federal Reserve System, and a limitation has been added that the amount of the statutory reserves required to be maintained under existing law may not be decreased, nor increased to more than twice such amount.

Section 210 of the bill as it passed the House amended section 24 of the Federal Reserve Act so as to provide that the conditions under which real-estate loans might be made by national banks would be prescribed by regulations of the Federal Reserve Board, with the limitations that the amount of any such loan hereafter made should not exceed 60 percent of the appraised value of the real estate at the

time the loan is made and that the aggregate amount of such loans by any such bank should not exceed the capital and surplus of the bank, or 60 percent of its time and savings deposits, whichever is the greater.

Section 207 of the bill reported by the committee retains the limitation of existing law that real-estate loans by national banks should be limited to those upon properties situated within the Federal Reserve district of such bank or within a radius of 100 miles of the place in which the association is located, irrespective of district lines. It is further provided that any such loan hereafter made should not exceed 50 percent of the appraised value of the real estate offered as security and that no such loan should be made for a longer term than 5 years, except that any such loan may be made in an amount not to exceed 60 percent of the appraised value of the real estate and for a term not longer than 10 years if the loan is secured by an amortized mortgage under the terms of which the installment payments are sufficient to amortize 50 percent or more of the principal of the loan within a period of not more than 10 years. Renewals or extensions of loans heretofore made and real estate loans which are insured under the provisions of title II of the National Housing Act are exempted under both the House and Senate provisions. The provisions authorizing the Federal Reserve Board to prescribe the conditions under which such loans might be made have been eliminated, but the committee retained the provision of the bill as it passed the House with respect to the aggregate amount of real-estate loans which might be made by any such bank.

Section 208 of the bill reported by the committee fixes the salary of the Comptroller of the Currency at $12,000 a year and removes the provision of existing law which provides that his appointment be made upon the recommendation of the Secretary of the Treasury. Under existing law the salary of the Comptroller is $12,000, but he receives $7,000 of this amount by reason of his being a member of the Federal Reserve Board.

TITLE III.—TECHNICAL AMENDMENTS TO THE BANKING LAWS

Section 301 amends section 2 (c) of the Banking Act of 1933 so as to exclude from the definition of a "holding company affiliate", and from the provisions of law relative to such affiliates (except the provisions of section 23A of the Federal Reserve Act covering loans to and investments in the securities of holding company affiliates), any corporation all of the stock of which is owned by the United States and any organization which the Board of Governors of the Federal Reserve System (which, under title II of the bill, is the new name for the Federal Reserve Board) determines is not engaged as a business in holding the stock of, managing, or controlling banks. Experience in administering the present law has revealed instances of a bank being controlled by an organization, such as a church, labor union, charitable foundation, etc., the principal activities of which are entirely outside the banking field. The effect of the amendment is to relieve such organizations from the limitations and requirements to which holding companies engaged as a business in controlling banks are subject.

Section 302 amends section 20 of the Banking Act of 1933 so as to eliminate the necessity of a bank going through the formality of divorcing a securities affiliate in those cases where the securities

affiliate is in formal liquidation and transacts no business other than that incidental to liquidation.

Section 303 (a) amends section 21 (a) (1) of the Banking Act of 1933 so as to provide that it should not be construed as prohibiting banks, bankers, or financial institutions from engaging in securities activities within the limits expressly permitted in the case of national banks under section 5136 of the Revised Statutes. It is further provided that this paragraph shall not be construed as limiting such rights as banks may otherwise possess to sell obligations evidencing loans on real estate without recourse or obligation to repurchase.

Section 303 (b) of the House bill repealed section 21 (a) (2) of the Banking Act of 1933 which prohibits any person or organization not subject to examination and regulation under State or Federal law from engaging in the business of receiving deposits unless such person or organization submits to the examination by the Comptroller of the Currency or by a Federal Reserve bank. Instead of repealing this paragraph, the committee recommends that it be amended so as to prohibit any person or organization from engaging in the business of receiving deposits with others than his or its own officers, agents, or employees unless such person or organization is incorporated under and authorized to engage in such business by Federal or State law, or is permitted to engage in such business by any State, Territory, or District and is subject under the laws thereof to examination and regulation, or submits to examination by the banking authorities of the State, Territory, or District where the business is conducted and makes and publishes periodic reports of condition under the same conditions as required by local law of an incorporated banking institution. It has been deemed advisable to retain the prohibition on unregulated private banking so far as practicable and at the same time to relieve the Comptroller of the Currency and the Federal Reserve banks of many problems which have made the administration of the law highly burdensome. Furthermore, as a result of the amendment it will no longer be possible for such institutions to advertise that they are subject to Federal examination, which has a tendency to deceive the public into thinking that such institutions are also subject to Federal supervisory regulation and control.

Section 304: Under section 22 of the Banking Act of 1933 double liability of stockholders in national banks was abolished as to stock issued after June 16, 1933. This section amends section 22 to eliminate all double liability on stock issued prior to June 16, 1933, such liability to terminate on July 1, 1937, as to banks then in active operation, provided the bank in question publishes notice of such termination of liability not less than 6 months prior to such date.

Section 305 amends paragraph (c) of section 5155 of the Revised Statutes so as to permit national banks to operate a seasonal agency in a resort community within the county in which the bank has its main office, if there is no bank located or doing business in such resort, and if State banks are permitted by the laws of the State to maintain branches within county limits. The authority thus granted is to be revoked upon the opening of a State or national bank in the community in question. Exemption is given from the capital requirements otherwise provided by paragraph (c) for the operation of branches where the branch in question is of the seasonal resort type.

Section 306 remedies a defect in the act of June 16, 1934, which relieved directors of member banks from the additional stock ownership requirements imposed by section 31 of the Banking Act of 1933 and under which national banks in Alaska and Hawaii which are not members of the Federal Reserve System were accidentally excluded from the benefit of this repeal.

Section 307 amends section 32 of the Banking Act of 1933, effective January 1, 1936, to authorize the Board of Governors of the Federal Reserve System to permit interlocking relationships between member banks and securities companies otherwise prohibited by such section 32, such authorization to be by general regulation in those cases where the Board determines the relationship would not unduly influence the investment policies of the bank or the advice it gives its customers regarding investments. Under existing law, the Federal Reserve Board is authorized to permit such relationships only by individual permits rather than by general regulation and by issuance of such permits in those cases deemed not incompatible with the public interest. The amendment extends the prohibitions on such interlocking relationships to employees of securities companies and banks, to individuals engaged in the securities business, and to officers, directors, etc., of institutions engaged in such business. The prohibition of existing law against "correspondent relationships" is eliminated.

Section 308 (a) amends section 5136 of the Revised Statutes (relating to purchasing and holding investment securities by national banks) so as to eliminate the existing limitation against purchasing and holding more than 10 percent of a particular issue of securities, and it also changes the limitation against a bank purchasing and holding securities of any one obligor in excess of 15 percent of capital and 25 percent of surplus so as to reduce said limitation to 10 percent of each. This reduction of limitation is not to apply to securities lawfully held in excess of this amount when the act takes effect. An additional amendment to this section which was not incorporated in the House bill would permit national banks under regulations by the Comptroller of the Currency to underwrite and sell bonds, debentures, and notes, such sales to be limited to sales on a national securities exchange or directly to dealers or brokers (other than banks) registered with the Securities Exchange Commission, or at public auction or otherwise as may be prescribed by the Comptroller of the Currency. Such underwriting is limited to 20 percent of any one issue, or $100,000, whichever is the greater, and is further limited as to the total obligations of any one issuer to 10 percent of the bank's capital and surplus. The aggregate of all underwriting engagements is limited to twice the bank's capital and surplus. While these amendments are specifically made to the law relating to the powers of national banks, they also affect private bankers, and all State banks whether or not they are members of the Federal Reserve System. The provisions of section 9 of the Federal Reserve Act subject State member banks to the same limitations and conditions as to purchase, sale, underwriting, and holding of investment securities as are applicable to national banks, and private bankers and State banks are relieved from the operation of section 21 (a) (1) of the Banking Act of 1933 to the extent that their securities operations are permitted in the case of national banks.

Section 308 (b) merely clarifies section 5136 of the Revised Statutes so as to provide that national banks (and consequently member banks) may not buy and sell stocks for their own account.

Section 308 (c) includes within the group of securities that may be dealt in by member banks free from the restrictions of section 5136 of the Revised Statutes, obligations insured by the Federal Housing Administrator if debentures guaranteed by the United States as to principal and interest are to be issued in payment of such insured obligations.

Section 309 amends section 5138 of the Revised Statutes to require a newly organized national bank to have a paid-in surplus equal to 20 percent of its capital, thus expressly providing by law a condition which has long been imposed by the Comptroller of the Currency. This requirement may be waived by the Comptroller as to a State bank converting into a national bank. An additional condition not embraced in the House bill has been added to the effect that any such converting State bank shall carry not less than one-half of its net profits for the preceding half year to its surplus fund before declaring dividends, until its surplus equals 20 percent of its capital. Further provision is made for giving any such bank credit as surplus for amounts paid into a preferred stock retirement fund.

Section 310 (a) amends the provisions of section 5139 of the Revised Statutes which provide that stock certificates of national banks may not represent the stock of any other corporation except a member bank or a corporation engaged solely in holding the bank premises of the association, so as to provide that such certificate may not bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises. This amendment differs from the provision in the House bill in that it exempts corporations engaged in holding the bank premises on June 16, 1934, whereas the House provision limits the exception to a corporation primarily engaged in holding such premises. ~~It is further provided that the law shall not operate to prevent the ownership, sale, and transfer of stock of other corporations being conditioned upon the ownership, sale, and transfer of national-bank stock.~~

Section 310 (b) adds a provision not incorporated in the House bill which amends section 9 of the Federal Reserve Act and makes the same changes in the law relative to stock certificates of State member banks as was made by section 310 (a) as to stock certificates of national banks.

Section 311 (a) revises the first paragraph of section 5144 of the Revised Statutes so as to eliminate any question as to the voting rights of the Reconstruction Finance Corporation or other holders of preferred stock of national banks being limited to one vote per share where under the terms of the articles of association under which such preferred stock was issued a stockholder is entitled to more than one vote per share. It also changes the present prohibition against voting of shares of bank stock held by a national bank as sole trustee so as to limit such prohibition only to the election of directors, and it permits such shares to be voted in any case where, under the terms of the trust, the donor or beneficiary may and does direct how such shares shall be voted. It also permits shares held by a holding-company

affiliate to be voted without a permit, in favor of placing the bank in voluntary liquidation or taking other action pertaining to voluntary liquidation.

Section 311 (b) amends said section 5144 so as to clearly indicate that when a holding-company affiliate obtains a voting permit it is entitled to the cumulative voting rights possessed by other shareholders. The amendment further eliminates any question as to the power of the Board of Governors of the Federal Reserve System to issue limited, as distinguished from general, voting permits.

Section 311 (c) was not included in the House bill. It amends section 5144 of the Revised Statutes by relieving a holding-company affiliate, to the extent that the shares of bank stock owned by it are not subject to statutory liability, from the requirements of subsection (b) of section 5144 which requires a holding-company affiliate to maintain and possess readily marketable assets other than bank stock in an amount not less than 12 percent of the aggregate par value of all such stock controlled by the affiliate, and requires it to increase such amount by 2 percent per annum until such amount equals 25 percent of the par value of such bank stock. In lieu of the foregoing requirement, any such holding-company affiliate, to the extent that the shares of bank stock held by it are not subject to statutory liability, is only required to maintain a reserve out of net earnings above 6 percent of such readily marketable assets in an amount equal to 12 percent of the par value of bank stocks controlled by it.

Section 312 amends section 5154 of the Revised Statutes to permit the Comptroller of the Currency to allow a State bank converting into a national bank to retain and carry at a value determined by him such assets of the bank as do not conform to the legal requirements governing assets which may be acquired and held by a national bank.

Section 313 authorizes the Comptroller of the Currency to designate persons in his place and stead to countersign his name on such assignments and transfers of bonds as require his countersignature.

Section 314 amends section 5197 of the Revised Statutes to permit national-bank branches located outside the United States to charge the rate of interest permitted under local law.

Section 315 amends section 5199 of the Revised Statutes to provide that national banks shall carry not less than one-tenth part of their net profits of the preceding half year to surplus before the declaration of a dividend until the surplus is built up to equal the amount of the common capital. The existing law only requires the surplus to be built up to an amount equal to 20 percent of the bank's capital before declaring a dividend. This amendment is deemed essential inasmuch as provision elsewhere in the bill has been made for elimination of assessment liability on shareholders. An additional provision not contained in the House bill allows a national bank to treat as an addition to its surplus fund amounts paid into its preferred-stock retirement fund.

Section 316 extends the criminal provisions of section 5209 of the Revised Statutes as to embezzlement, false entries, etc., so as to apply to officers, directors, and employees of insured nonmember banks.

Section 317 amplifies section 5220 of the Revised Statutes to make definite provision for the procedure to be followed in the case of voluntary liquidation of national banks, permitting the Comptroller

of the Currency to examine the affairs of such liquidating bank and making its liquidating agent subject to removal by the shareholders of the bank.

Section 318 extends the present prohibitions of section 5243 of the Revised Statutes against improper use of the word "national" to include a combination of such word with other words or syllables, and brings the improper use of the word "Federal" and the words "United States" within the same prohibitions of the statute.

Sections 319 (a) and (b) amend section 5 of the Federal Reserve Act by requiring banks to reduce their holdings of Federal Reserve stock upon reducing their surplus, as they are now required to do by existing law upon reducing their capital. Sections 5 and 6 of the Federal Reserve Act are also amended so as to eliminate the present useless formality of Federal Reserve banks executing a certificate to the Comptroller of the Currency showing increase or decrease in the capital stock of Federal Reserve banks. Since such changes in capital are now approved by the Federal Reserve Board before the change is made, the filing of such certificates serves no useful purpose.

Section 320 amends section 9 of the Federal Reserve Act to authorize the Board of Governors of the Federal Reserve System to prescribe the form for reports of condition of State member banks and the information to be contained therein. It further requires the reporting banks to publish such reports in such manner and in accordance with such regulations as may be prescribed by the Board of Governors of the Federal Reserve System.

Section 321 (a) amends section 11 (m) of the Federal Reserve Act to extend to State member banks the provisions applicable to national banks which enlarges the maximum limitation on loans to one individual from 10 percent of the bank's unimpaired capital and surplus to 25 percent thereof, where such loans are secured by bonds, notes, certificates, or Treasury bills of the United States, or secured by obligations fully guaranteed as to principal and interest by the United States. The provisions with respect to such guaranteed obligations were not included in the House bill.

Section 321 (b) amends paragraph 8 of section 5200 of the Revised Statutes so as to provide a maximum limit of 25 percent instead of 10 percent of the bank's capital and surplus on loans secured by various obligations of the United States. The amendment adds to such obligations, Treasury bills of the United States and obligations fully guaranteed both as to principal and interest by the United States. The provisions with respect to such guaranteed obligations were not included in the House bill.

Section 322 amends section 13 of the Federal Reserve Act so as to permit Federal Reserve banks to discount paper for individuals or corporations unable to secure adequate credit accommodation from other banks where such paper is either endorsed or otherwise secured to the satisfaction of the Federal Reserve bank, and thus modifies the present requirements of law that such paper be both endorsed and so secured.

Section 323 amends subsection (e) of section 13b of the Federal Reserve Act to make it conform with the provisions of title I of the bill, so as to substitute "amount paid" for "the par value of" stock of the Federal Deposit Insurance Corporation owned by the Federal Reserve banks. This change is necessary because under title I stock of the Federal Deposit Insurance Corporation will be without par value.

Section 324 (a) amends section 19 of the Federal Reserve Act to permit the Board of Governors of the Federal Reserve System to define for the purposes of the section, the terms "demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits", "savings deposits", and "trust funds", and to further determine what shall be a payment of interest under the section and to make regulations to effectuate the purposes of the section. It is further provided that within the provisions of the section regarding the reserves of member banks the term "time deposits" shall include "savings deposits."

Section 324 (b) amends the tenth paragraph of section 19 of the Federal Reserve Act to provide, for purposes of computing bank reserves, that amounts due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable upon presentation in the United States, may be deducted from gross demand deposits rather than from balances due to other banks, thus insuring to country banks which have no balances due to other banks, the benefits of such deduction.

Section 324 (c) amends section 19 of the Federal Reserve Act to add to the classes of deposits exempted from the prohibition against the payment of interest on demand deposits, deposit contracts existing when a bank joins the Federal Reserve System. It is also provided that deposits payable outside the States of the United States and the District of Columbia shall likewise be exempt, rather than "those payable in foreign countries" as is provided in the existing law. An amendment not included in the House bill prohibits payment of interest after the expiration of 2 years from the date of enactment of the act, on demand deposits made by savings banks as defined in section 12B of the Federal Reserve Act, as amended, and by mutual savings banks, demand deposits of public funds made by or on behalf of any State, county, school district, or any subdivision or municipality, and demand deposits of trust funds, upon which interest is required to be paid by State law. The House provision, permitting payment of interest on demand deposits made by any such savings bank or mutual savings bank, by the United States or any Territory, District, or possession thereof, including the Philippine Islands, or any public instrumentality or agency thereof with respect to which interest is required by law, or by any State, etc., and on demand deposits of trust funds, is eliminated. A new provision is added repealing so much of existing law as requires payment of interest on deposits of public funds made by the United States, etc. In conformity with the House provision, the amendment makes more flexible the power of the Board of Governors of the Federal Reserve System to classify time and savings deposits and prescribe the rates of interest to be paid thereon. The absolute prohibition against payment of time deposits before maturity is relaxed under conditions to be prescribed by the Board, and deposits payable only at offices of member banks located outside of the United States and the District of Columbia are exempted from the restrictions on interest rates and the prohibitions on payment before maturity.

Section 324 (d) amends section 19 of the Federal Reserve Act to require member banks to maintain the same reserves against Government deposits as are required against other deposits, thus repealing the exemption contained in the Liberty Bond Acts.

Section 325 amends section 21 of the Federal Reserve Act to permit the Comptroller of the Currency and the Board of Governors of the Federal Reserve System to waive the requirement of a report from or an examination of an affiliate of a member bank when in the judgment of the Comptroller or the Board the report or examination is not necessary to disclose fully the relations between such affiliate and the bank and the effect thereof upon the affairs of the bank.

Section 326 (a) amends section 22 (a) of the Federal Reserve Act to extend the existing prohibitions against loans or gratuities to bank examiners by member banks, and their officers and employees so as to include insured nonmember banks and the examiners thereof, and State examiners of member banks and insured banks, but not private examiners thereof. The prohibitions do not apply, however, either to the bank or the examiner if the bank is not subject to examination by such examiner, as for example, where a loan is made by a State member bank to a national bank examiner.

Section 326 (b) amends section 22 (b) of the Federal Reserve Act to extend existing prohibitions against a national bank examiner receiving compensation from any bank, officer, or employee thereof, so as to include examiners of the Federal Deposit Insurance Corporation. This section also extends the existing restrictions against examiners revealing the names of borrowers or the collateral for loans so as to cover insured nonmember banks.

Section 326 (c) revises section 22 (g) of the Federal Reserve Act which prohibits loans to executive officers of member banks by extending the time within which such loans may be renewed to June 16, 1938, provided the directors by resolution determine that such renewal is in the bank's interest and that the indebted officer has made proper effort to reduce his obligation. Provision is also made for permitting an executive officer to borrow from his bank in an amount not exceeding $2,500, if a majority of the bank's entire board approves. Borrowing by a partnership, a majority interest in which is held by one or more executive officers, is prohibited. Executive officers may endorse paper previously taken by the bank in good faith or may incur indebtedness to the bank where the object is to aid or protect the bank. The existing rigid provisions of the law are somewhat relaxed to permit the Board of Governors of the Federal Reserve System to prescribe regulations and define terms in connection therewith, and a provision for the removal of any officer who violates the provisions of the section is substituted for the criminal penalty provided for by existing law.

Section 327 amends section 23A of the Federal Reserve Act which limits loans to affiliates, and loans on and investments in securities of affiliates, and prescribes certain conditions by way of collateral requirements to such loans. It also enumerates certain types of affiliates which are exempt from such conditions and requirements.

Section 328 adds a provision to section 24 of the Federal Reserve Act so as to exempt from the restrictions of that section on real-estate loans "working-capital" loans participated in by a Federal Reserve bank or the Reconstruction Finance Corporation, loans as to which any such bank or the Corporation has made a commitment and loans of which a part has been discounted, purchased, or loaned against as security by a Federal Reserve bank.

Section 329 of the bill as reported by the committee repeals section 8A of the Clayton Act relating to interlocking relationships between banks and institutions making loans secured by stock or bond collateral, and repeals the provisions of sections 25 and 25 (a) of the Federal Reserve Act which relate to interlocking relationships. The first three paragraphs of section 8 of the Clayton Act are also amended, but the provision in the bill reported by the committee differs from that in the House bill. The House bill prohibited any director, officer or employee of a member bank from being at the same time a private banker or a director, officer, or employee of another banking institution (other than a mutual savings bank) except in limited classes of cases in which the Federal Reserve Board might allow such service by general regulation when in its judgment such classes of institutions were not in substantial competition. As amended by the committee, the provision prohibits a director, officer, or employee of a member bank or branch thereof from being at the same time a private banker, or a director, officer, or employee of more than one other bank or trust company or branch thereof, except in the following cases:

(1) Where such other bank is more than 90 percent controlled by the United States or a corporation in which the United States owns more than 90 percent of the stock.

(2) Where such other bank has been placed in liquidation or is in the hands of a receiver or conservator.

(3) Where such other bank is principally engaged in international or foreign banking in a possession of the United States and has entered into an agreement with the Board of Governors of the Federal Reserve System as provided by section 25 of the Federal Reserve Act.

(4) A bank more than 50 percent of the common stock of which is owned by persons owning more than 50 percent of the common stock of a member bank.

(5) A bank not located and having no branch in the same place in which a member bank or a branch thereof is located or in a place contiguous thereto.

(6) A bank not engaged in a class of business in which a member bank is engaged.

(7) A mutual savings bank having no capital stock.

A further provision not contained in the House bill suspends the operation of the amendment until February 1, 1939, insofar as it affects interlocking relationships of any director, officer, or employee of a member bank or branch thereof lawfully existing on the date the act takes effect.

Sections 330 (a) and (b) amend section 1 of the act of November 7, 1918, so as to clarify the law relating to consolidation of national banks, particularly as to the rights and obligations of dissenting shareholders.

Sections 331 (a) and (b) make the same clarifying amendments with respect to the provisions of existing law relating to consolidation of State and national banks.

Section 332 amends section 2 of the act of May 24, 1926, forbidding the misleading use of the words "Federal", "United States", and "Reserve" by banks, insurance companies, etc., so as to prohibit such use of the words "deposit insurance".

Section 333 extends the provisions of the act of May 18, 1934, relating to criminal penalties for robbery of member banks, so as to include insured nonmember banks.

Section 334 amends section 5143 of the Revised Statutes so as to provide that as a condition to approving a reduction of the capital stock of a national bank the Comptroller of the Currency may specify that such bank shall not make a distribution of assets to its shareholders. It also repeals the requirement that capital stock reductions by national banks be approved by the Federal Reserve Board inasmuch as the Comptroller of the Currency must also approve such reductions.

Section 335 amends section 5139 of the Revised Statutes to prescribe a standard form for stock certificates hereafter issued by national banks.

Section 336 amends section 301 of the Emergency Banking Act of March 9, 1933, so as to provide that no issue of preferred stock by a national bank will be valid until the Comptroller of the Currency has issued a certificate of approval.

Section 337 terminates the liability of shareholders of banks and trust companies in the District of Columbia on July 1, 1937, under the same conditions as are applicable under section 304 of the bill in the case of national banks. Each such institution is required to carry one-tenth part of its net profits of the preceding half year to surplus before declaring a dividend and to continue to do so until the surplus equals the amount of its common stock, but it is allowed to treat as surplus any amounts paid into a fund for retiring its preferred stock or debentures.

Section 338 amends section 9 of the Federal Reserve Act so as to no longer make it necessary for State member banks to obtain the approval of the Comptroller of the Currency for the establishment of branches or retention of branches, and requiring them instead to obtain the consent of the Board of Governors of the Federal Reserve System. This amendment merely corrects a technical error in the Banking Act of 1933 with respect to the supervisory authority from whom approval must be obtained.

Section 339 eliminates the requirements of section 5234 of the Revised Statutes that national bank receivership funds deposited in other banks be secured by collateral, to the extent that such deposits are protected by insurance by the Federal Deposit Insurance Corporation.

Section 340 makes a similar provision as to deposits of bankruptcy funds required to be secured by section 61 of the Bankruptcy Act.

Section 341 of the House bill which amended the provisions of section 8 of the Postal Savings Depository Act of June 25, 1910, relating to the withdrawal of and interest on postal savings deposits, has been eliminated by the committee.

Section 341 of the reported bill amends section 11 (k) of the Federal Reserve Act to provide that State banking authorities may have access to the reports of examination of trust departments of national banks made by the Comptroller of the Currency. This provision was not included in the House bill.

Section 342 amends section 5240 of the Revised Statutes, relating to payment of compensation of employees of the Office of the Comptroller of the Currency by means of assessments on banks, so as to include the payment of retirement annuities for such employees. There was no corresponding provision in the House bill.

Section 343, which was not included in the House bill, makes several minor clarifying amendments to the provisions of the National Housing Act relating to suits brought under such act, the insurance of loans for financing alterations, repairs, and improvements on real property, and mortgage insurance.

Section 344 adds a provision which was not contained in the House bill relating to preferred stock, capital notes, and debentures of member banks of the Federal Reserve System and the consideration to be given to such securities in determining whether the capital stock of any such bank is impaired. It is also provided that the dividends on preferred stock of national banks shall not exceed 6 percent of the original purchase price of such stock, and that in the event of the retirement of such stock or the liquidation of the bank the holders of the stock shall be entitled to receive not more than the original purchase price plus accumulative dividends.

Section 345 contains the usual provision relating to separability in the event any part of the act should be held unconstitutional.

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