

STATEMENT OF HON. LEO T. CROWLEY, CHAIRMAN, FEDERAL DEPOSIT
INSURANCE CORPORATION, ON H. R. 12447 BEFORE THE COMMITTEE ON
BANKING AND CURRENCY OF THE HOUSE OF REPRESENTATIVES, MONDAY
MAY 11, 1936.

Last year this Committee and the Senate Banking and Currency Committee held extensive hearings and gave careful consideration to the revisions of the law necessary to enable the Federal Deposit Insurance Corporation to discharge its duties efficiently. As a result, Title I. of the Banking Act of 1935 was enacted, providing for the powers and duties of the Corporation, both as insurer and as receiver of national banks. We do not understand that this Committee intends in any way to change any of the provisions of the law governing the operation of the Corporation which were enacted last year. However, several sections of the pending bill are so worded as possibly to create uncertainty on the question of whether the powers of the Corporation are being changed or diminished by implication.

While the enactment of the bill in its present form might be held not to affect rights and powers of the Corporation, the determination of this question involves a question of statutory construction which can readily be avoided by the insertion of a provision specifically stating that the bill shall not in any way affect or diminish the Corporation's powers.

Section 1

Section 1 of the bill under consideration provides that the Comptroller of the Currency in fixing salaries of employees

who are now or hereafter may be under his direction by virtue of any provision of law and whose salaries are payable from funds under his control and supervision derived from assessments levied by him or as otherwise provided by law, may apportion their salaries among various funds where services are rendered in connection with more than one administrative division or branch of the duties imposed by law upon him in any capacity.

The attention of the committee is called to paragraph (1) of subsection (m) of Section 12B of the Federal Reserve Act, as amended, which provides that the Corporation as receiver of a closed national bank "shall have the right to appoint agents to assist it in its duties as such receiver and that all fees, compensations, and expenses of liquidation and administration thereof shall be fixed by the Corporation, subject to the approval of the Comptroller of the Currency, and may be paid by it out of funds coming into its possession as such receiver."

It is not clear whether the draftsman of section 1 of the pending bill intended that it should apply to the receivership activities of the Federal Deposit Insurance Corporation. In the pending bill no specific reference is made to Section 12B of the Federal Reserve Act. However, the enactment of this section as an amendment to the existing statutes pertaining to national bank liquidations might be construed to imply the repeal or modification of those provisions of paragraph (1), subsection (m) of Section 12B which give the Corporation the right to employ agents and fix their compensation.

This would serve only to deprive the Corporation of rights now given to it by Congress to appoint agents to assist it in its duties as receiver and to fix the fees, compensation and expenses of such employees. Because of the provision in subsection (m) of Section 12B of the Federal Reserve Act, giving the Comptroller of the Currency the right to approve any fees, compensation or expenses so fixed by the Corporation as receiver of a national bank, his office already has full authority to protect the interest in national bank receiverships of all creditors other than the Corporation.

Section 4

Section 4 of the bill under consideration provides that whenever all the assets of an association which has been placed in the hands of a receiver shall have been distributed by the Comptroller of the Currency in accordance with the provisions of Section 5236 of the Revised Statutes of the United States, the Comptroller of the Currency may call a meeting of shareholders of the association to vote upon the question of whether the receiver shall continue to wind up the affairs of the association or an agent shall be elected for that purpose. In lines 11 to 14 on page 9 of H. R. 12447, reference is made to the distribution of the assets of the association in the hands of a receiver "by the Comptroller (of the Currency) in accordance with the provisions of Section 5236 of the Revised Statutes of the United States" and to the payment in full of all claims "by the said Comptroller."

Paragraphs three and four, subsection (L) of Section 12B of the Federal Reserve Act, as amended, now provide that whenever

any insured national bank shall have been closed by action of its board of directors, or by the Comptroller of the Currency, as the case may be, on account of inability to meet the demands of its depositors, the Comptroller of the Currency shall appoint the Corporation receiver for such closed bank, and no other person shall be appointed receiver of such closed bank. It is further provided that it shall be the duty of the Corporation as such receiver to realize upon the assets of such closed bank and to wind up the affairs of such closed bank. The Corporation is specifically directed to retain for its own account such portion of the amounts realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors, and to pay the depositors and other creditors the net amounts available for distribution to them. With respect to such closed bank, the Corporation, as receiver, is given all the rights, powers, and privileges now possessed by or hereafter granted by law to a receiver of an insolvent national bank.

Section 4 of H. R. 12447 can be construed as superseding the above-mentioned provisions of subsection (L) of Section 12B of the Federal Reserve Act. We have no objections to any of the provisions of the pending bill insofar as they apply to receiverships contracted for by the Comptroller of the Currency prior to January 1, 1934. However, as previously stated, we are sure that neither this Committee nor the Comptroller of the Currency intends to affect the existing powers of the Federal Deposit Insurance Corporation as

receiver of national banks which fail subsequent to January 1, 1934. We also believe that it is not the desire of this Committee to leave its intention in this respect subject to any doubt. It is therefore respectfully suggested that the Committee write into the bill a clause to the effect that nothing therein contained shall alter or affect in any manner the existing powers of the Federal Deposit Insurance Corporation as receiver of a national bank. It is also suggested that following the words "notwithstanding any other provisions of law," in line 10, page 2, there be inserted the words, "and except as herein otherwise provided," in order that the suggested clause excepting the Corporation might be given full effect.

We have not discussed the provisions of the second paragraph of Section 1, commencing with line 4 on page 2 of the pending bill, as we understand the Committee has already determined that this paragraph shall be stricken. The Corporation would recommend against the enactment of this provision as drawn and if the Committee intends to give further consideration to the paragraph the Corporation desires an opportunity to present its objections at length at a further hearing.