

RIGHT OF TWO NATIONAL BANKS TO CONSOLIDATE AND STATUS  
OF CONSOLIDATED INSTITUTION WITH RESPECT TO BRANCHES

Section 33, Title 12, U. S. Code, provides in part as follows:

"That any two or more national banking associations located within the same State, county, city, town, or village may, with the approval of the Comptroller of the Currency, consolidate into one association under the charter of either existing banks," etc.

It is plain that consolidation could not take place without the approval of the Comptroller. Disapproval in his discretion, unless abused, would be final.

Section 34(a) of Title 12, U. S. Code (enacted in February 1927), applies primarily to the consolidation of a State bank with a national bank but it also contains the following provision:

"Upon such a consolidation, or upon a consolidation of two or more national banking associations under section 1 of this Act \* the corporate existence of each of the constituent banks and national banking associations participating in such consolidation shall be merged into and continued in the consolidated national banking association and the consolidated association shall be deemed to be the same corporation as each of the constituent institutions. All the rights, franchises, and interests of each of such constituent banks and national banking associations in and to every species of property, real, personal, and mixed, and choses in action thereto belonging, shall be deemed to be transferred to and vested in such consolidated national banking association", etc.

Accordingly, the charter powers of each of the consolidated institution would be continued. The aforesaid Act of February 1927 also contained the following provision with respect to domestic branch banks - section 36, Title 12, U. S. Code.

"The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

"(a) A national banking association may retain and operate such branch or branches as it may have in lawful operation at the date of the approval of this Act, and any national banking association which has continuously maintained and operated not more than one branch for a period of more than twenty-five years immediately preceding the approval of this Act may continue to maintain and operate such branch."

The provisions of the charters of the respective subject banks have not been available for study but, with respect to branches, the foregoing would be a limitation upon the charter powers whatever the original charters may have provided. Under this section the consolidated bank could retain the branches of both banks. However, under section 36, new branches could be established only with the approval of the Comptroller of the Currency.

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The above section 33-