

Branch, Chain, and Group Banking

HEARINGS BEFORE THE COMMITTEE ON BANKING AND CURRENCY HOUSE OF REPRESENTATIVES

SEVENTY-FIRST CONGRESS

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AND BRANCH BANKING

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BRANCH, CHAIN, AND GROUP BANKING

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND CURRENCY,
Friday, March 14, 1930.

The committee met in the committee room, Capitol Building, at 10.30 o'clock a. m., Hon. Louis T. McFadden (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. Seiberling, you seem to be next on the list this morning to question the Comptroller.

STATEMENT OF HON. JOHN W. POLE—(Resumed)

Mr. SEIBERLING. Mr. Pole, there has been a good deal said about the Canadian banking system, and I would like to read into the record a paragraph from an address made by A. B. Barker, of Toronto, Ontario. It is found in the Journal of the Canadian Bankers' Association for October, 1929, and I read from page 81 as follows:

Many comparisons are made between the banking systems in Canada and the United States, but there is one feature which is seldom referred to, and that is the extraordinary difference in the attitude of the general public in each country toward its own system. In Canada the banks are not popular, and the criticism of a certain class is very forcibly expressed in Parliament whenever the opportunity occurs. Across the border, however, this does not seem to be the case, and the average American freely asserts that, in his country, they have the finest banking system in the world. Canadians know in their hearts that their own system is the equal of any, but when opinions are expressed they seem to be suffering from an inferiority complex, and praise that of every country but their own.

I suppose, Mr. Comptroller, that the unpopularity of the banks is due to a large extent on account of the service that they render and the price at which they render it—is that not so?

Mr. POLE. I would not like to be put in the position of admitting the unpopularity of the Canadian banking system in Canada. That is the opinion of one writer, but there are other opinions which differ.

Mr. SEIBERLING. You think that their system is popular over there?

Mr. POLE. I would say it is popular, with the possible exception of western Canada.

Mr. SEIBERLING. They do not get anywhere near as large an amount on their deposits there as we do in this country; they do not pay as much interest on deposits as we do here.

Mr. POLE. Of course, the rates of interest which we pay in this country vary very greatly. In Canada it is much more uniform, and I think quite reasonable. Certainly the rate at which they lend money not only in the cities but in the farthest hamlet is very much more reasonable and very much more uniform than it is here.

Mr. SEIBERLING. I assume that that is a very admirable feature of their banking system?

Mr. POLE. It is, indeed.

Mr. SEIBERLING. The failure, however, to pay as much interest on deposits there is due probably to lack of competition, is it not?

Mr. POLE. I would not say that. I am not prepared to say that the average amount of interest which is paid on deposit accounts in Canada is not as great as it is in this country. Do you know that to be true?

Mr. SEIBERLING. I only know what this gentleman says in his address.

Mr. POLE. I would not accept that article without knowing something more about it.

Mr. SEIBERLING. This article is written on the subject of savings deposit accounts, and in the paragraph immediately preceding the one I read, in speaking of United States savings banks and trust companies, he says:

These institutions operate savings departments, but they are for real savings, and for that reason American banks and trust companies are able to pay higher rates of interest on savings deposits than Canadian banks.

Mr. POLE. I do not know how authoritative that is.

Mr. SEIBERLING. I do not, either, except that that is said in his address published here in the Journal of the Canadian Bankers' Association.

Mr. POLE. That is undoubtedly his honest opinion.

Mr. SEIBERLING. After my examination of you the other day, some one said that he thought I was "out on a limb," and I want to put this statement in the record, that, as far as I am personally concerned, if we are going to concentrate banking in this country and put it in the hands of fewer people, then I should favor restrictions upon the rates which may be charged for money, and that is the connection between my examination and the bill pending before the committee.

Now, Mr. Comptroller, you said the other day that you were in favor of having banks also underwrite securities—is that correct?

Mr. POLE. Yes, certain classes of securities. The national banks now have authority to deal in securities of certain types.

Mr. SEIBERLING. They are given the authority to deal in industrial bonds?

Mr. POLE. Bonds, notes, and debentures are the three types of securities which the law permits them to deal in.

Mr. AWALT. Under regulation, under our control.

Mr. SEIBERLING. But your statement was that you thought it was perfectly proper for a large bank to have the right to underwrite securities, and in these securities would be classed industrial bonds?

Mr. POLE. Bonds, notes, and debentures, under regulation of the comptroller, under the present law.

Mr. SEIBERLING. Let us assume that an industry owes a large bank in a large center \$10,000,000 on notes running for three or four months and that we have a stringent money market; what is to prevent this bank from calling this loan, and, of course, in a stringent money market they could not go out and borrow \$10,000,000 some other place, and to say to them "We want a first mortgage on your property, and we want you to put out a bond issue; we will underwrite the bonds for you, and we will pay you 90 cents on the dollar, and you have to give us 8 per cent interest and then you have to redeem these

bonds at a fixed price: if you do not want to do that, you pay the loan."

Is there anything to prevent that?

Mr. POLE. If the notes were due, there would, of course, be nothing to prevent the bank from requiring their payment under any system of banking. As to what further arrangements for financing that interest there might be, would be difficult to answer. If the bond issue were acceptable, the bank might undertake to refinance it. Under this plan which you just suggested, if the rate of interest were regulated, I presume that would include bonuses of stock?

Mr. SEIBERLING. Yes, and a lot of things that I have not mentioned in my question; there are a lot of other things I could have put in, but did not.

Mr. POLE. All of that would, of course, have to be taken into consideration.

Mr. SEIBERLING. If a bank did not have the right to underwrite the bonds, and that profit was going to some other bank, is it not possible that they might not call the loan?

Mr. POLE. I should say that would be possible, if the bank wished to continue the loan and knew that it was good, that it might retain it in its portfolio.

Mr. SEIBERLING. Where you put all these transactions into the hands of one institution, is there not great danger that just such manipulations as that will be carried on in order to make a profit?

Mr. POLE. Those things might happen, Mr. Seiberling, under any form of banking, as far as I see. The protection of the public against manipulation is, of course, a question of banking ethics as well as public opinion, and I am convinced that there will always be plenty of banking competition in this country which would prevent undue advantage being taken.

Mr. SEIBERLING. Not on a loan of the size I have mentioned, in a stringent money market.

Mr. POLE. That is a hypothetical question, which would be very difficult for me to answer.

Mr. SEIBERLING. Of course, no bank would call a loan if it thought it was reasonably good in a money market where there was plenty of money, and rates were low.

Mr. POLE. Unless under your proposal it might take advantage of a situation to obtain a better underwriting arrangement.

Mr. SEIBERLING. They would not be very apt to do that if the profit on the underwriting was going to somebody else. You have not in your experience seen many banks working for a profit for other banks, have you?

Mr. POLE. Not often.

Mr. SEIBERLING. That is very seldom?

Mr. POLE. Yes; never.

Mr. SEIBERLING. I was glad to hear you say "never," because I never have.

Now, I want to ask you a few questions along other lines. I have heard a good deal of criticism of the Federal reserve system in connection with the limitation on loans which can be rediscounted. Have you heard any criticism of that kind?

Mr. POLE. That is stated in the law.

Mr. SEIBERLING. I know it is in the law, but have you heard criticisms of the law, that it is too restrictive in the particular I mentioned?

Mr. POLE. I would not say criticism. I have heard the matter discussed, as to whether perhaps different characters of paper might be admissible for discount at the Federal reserve banks, such as stock exchange loans and other classes of secured paper.

Mr. SEIBERLING. How about paper secured by municipal bonds?

Mr. POLE. I think that has also been discussed.

Mr. SEIBERLING. As a matter of fact, the member banks, in view of these restrictions, are not getting anywhere near as much service out of the Federal reserve banks as they could get otherwise—is not that true?

Mr. POLE. I think not. I think the liberality with which the Federal reserve bank has dealt with its members is quite remarkable.

Mr. SEIBERLING. But they can not go beyond the restrictions fixed by statute, can they?

Mr. POLE. That is true.

Mr. SEIBERLING. Within those limits, they have taken care of the situation?

Mr. POLE. Yes.

Mr. SEIBERLING. Here is a large municipal bond house in Ohio that buys municipal bonds, and they have to carry them in the banks until they can sell them at, they say, a present rate of 8 per cent. These bonds only yield about 4¼ to 5 per cent, and in many cases the rate of interest is limited by statute. Do you think that if the law could be amended so that loans with municipal bonds as collateral could be rediscounted, that would help that situation?

Mr. POLE. That is a difficult question to answer without giving full consideration to it. As to whether or not the classes of paper which might be eligible for rediscount by the Federal reserve banks should be enlarged is a question which would require a great deal of thought, and I have not given sufficient thought to it, Mr. Seiberling.

Mr. SEIBERLING. I suppose you will agree with me that municipal bonds are a security that should be classed as nearly comparable with Government bonds as any security in the country, will you not?

Mr. POLE. Speaking very generally, I should say yes. Of course, there are numerous instances where they are not comparable in any respect.

The CHAIRMAN. Will you yield there?

Mr. SEIBERLING. Yes.

The CHAIRMAN. I would like to ask Mr. Pole a fundamental question. Do you consider it good practice to permit the rediscount of loans secured by Government bonds?

Mr. POLE. I would see no objection to that. As a matter of fact, banks indirectly have that privilege now.

The CHAIRMAN. Do you think that brokers' loans secured by stock exchange collateral could safely be made subject to rediscount at the Federal reserve bank?

Mr. POLE. I have not given that sufficient consideration, Mr. Chairman.

The CHAIRMAN. Do you think mortgage loans, when given as security for notes to banks, could be made eligible for rediscount by Federal reserve banks?

Mr. POLE. I have not given that sufficient consideration. It is a very important question.

The CHAIRMAN. You do not care to express an opinion on that?

Mr. POLE. It requires a great deal of thought, and I would not be prepared to answer that question now.

The CHAIRMAN. All right, Mr. Seiberling.

Mr. SEIBERLING. When the Federal reserve act was passed, it was intended to help member banks by rediscounting acceptances for merchandise, and so forth, was it not?

Mr. POLE. The Federal reserve banks do purchase acceptances.

Mr. SEIBERLING. But in view of the fact that many corporations have now financed themselves by the sale of stock and have a large amount of cash, we do not have acceptances any more to any such extent as we did have, do we?

Mr. POLE. Yes, I think the acceptance method of financing transactions is increasing rather than diminishing.

Mr. SEIBERLING. It certainly is not in my city.

Mr. POLE. We are developing quite a good acceptance market now in New York and elsewhere, which was unknown before the Federal reserve act was passed in this country.

The CHAIRMAN. Will you yield again there?

Mr. SEIBERLING. Yes.

The CHAIRMAN. Does not a good deal of the acceptance business cover exportation and importation transactions?

Mr. POLE. Quite largely.

The CHAIRMAN. During the last year and a half, in your observation as comptroller—and, of course, you have jurisdiction over the banks who hold those acceptances?

Mr. POLE. Yes.

The CHAIRMAN. Do you consider that acceptances are always a very liquid form of paper, or has there been a tendency to consider them as frozen assets?

Mr. POLE. There may have been instances where acceptances have not been paid at maturity, but I know of no instance. They are probably considered in banking circles as the most liquid form of paper.

The CHAIRMAN. Under recent amendments to the Federal reserve act, the scope of the service of acceptances has been largely extended, has it not? In other words, it has been extended to cover goods in storage in foreign countries, and in process of manufacture?

Mr. POLE. There have been certain changes in the regulations.

The CHAIRMAN. Does it not cover that particular situation?

Mr. POLE. I believe that, generally speaking, that is correct.

Mr. SEIBERLING. The Federal reserve banks are piling up an enormous amount of wealth, are they not?

Mr. POLE. The capital and surplus accounts of Federal reserve banks, of course, are growing. Is that what you mean?

Mr. SEIBERLING. Yes.

Mr. POLE. Yes.

Mr. SEIBERLING. Is there any reason in a situation of that kind why the law should not be liberalized as to the paper that can be rediscounted?

Mr. POLE. You are going back to that same question again. I have not given sufficient consideration to any changes in that respect of the Federal reserve act. It is a very involved question.

Mr. SEIBERLING. I would like very much to have you give consideration to it and, if you reach a conclusion, I would like very much to have it in the record.

Mr. POLE. It is a matter to which the Federal reserve board itself is giving consideration to, and I have no doubt that at a later date probably a member of the board might be able to give a more definite answer.

Mr. SEIBERLING. You will agree with me that it would help the business of the country a great deal if the law could be liberalized without interfering with the functions of the Federal reserve bank, permitting the rediscount of a wider range of paper?

Mr. POLE. Due to a change in the financing of industry over the last few years, what is known as commercial paper is decreasing in volume, but there is usually ample credit to accommodate industry and agriculture under the present arrangements, and as to whether it might be found necessary to enlarge the scope of paper which the Federal reserve bank should discount is quite open to question.

Mr. SEIBERLING. I think that is all.

The CHAIRMAN. Mr. Steagall, have you any further questions to ask the comptroller?

Mr. STEAGALL. Not right now.

The CHAIRMAN. Judge Brand, have you any further questions?

Mr. BRAND. I want to ask just one or two, Mr. Chairman.

Mr. POLE, in your judgment, what effect on business do the decreasing of the discount rate and the increasing of the discount rate by the Federal reserve bank have?

Mr. POLE. That would depend very largely on what the condition of the country was at the time of the rate change. Yesterday the rate was lowered from 4 to 3½ per cent.

Mr. BRAND. What was the reason assigned for that?

Mr. POLE. The effect of that, in my judgment, would be almost entirely psychological, which would be good.

Mr. BRAND. You say it would have a good effect on business?

Mr. POLE. The psychological effect, I think, would be good.

Mr. BRAND. It is 3½ per cent now in the New York Federal Reserve Bank; that is the rate they reduced it to, on yesterday. Suppose that thirty days from now, this bank runs it up to 4½ or 5 per cent; what effect would that have?

Mr. POLE. I could not answer that question. That would depend upon the condition of the country at that time. I could not answer that question now.

Mr. BRAND. Well, it would have a different effect than decreasing it, would, would it not?

Mr. POLE. Judge, you are asking me what would happen in thirty days time if the discount rate were increased or decreased. I can not answer that, because I do not know what the necessity for any change might be in thirty days from now. I would like to answer your question if I could, but I think it would be difficult for me to venture any guess on a proposition of that kind.

Mr. BRAND. They have reduced it now from 4 per cent to 3½ per cent, as has already been stated. What effect, in your judgment, will this reduction have on farm commodities, and on prices generally?

Mr. POLE. I think that the psychological effect of a reduction in the rediscount rate at this time is decidedly good. As to whether it would have any practical effect as far as the bank's loaning rate is concerned, I can hardly believe that it would have any effect at all.

Mr. BRAND. It would have some effect, would it not, if they put it back to 4½?

Mr. POLE. Banks are borrowing very little now from the Federal Reserve banks.

Mr. BRAND. That is one reason, I suppose, why they reduced it to 3½ per cent, is it not?

Mr. POLE. My opinion is that the particular reason for the reduction in the rate at this time would be to perhaps create a little easier feeling on the part of the public that money was easy, and that there was no particular reason for retrenchment, but that business could go ahead with the reasonable assurance that money would continue to be cheap and plentiful.

Mr. SEIBERLING. Mr. Brand, if you will get the United States Daily for this morning, you will see that it gives the reason why the rate is down.

Mr. BRAND. I have not had a chance to read to-day's issue of this paper, but at the same time I want to get Mr. Pole's opinion about it. I had intended to ask this the other day, without knowing, of course, that it was going to be reduced from 4 per cent to 3½ per cent yesterday, but others prolonged their questions, so that I did not have the opportunity.

Now, Mr. Pole, it would make a decided difference in the prices of farm commodities and in the prices of all other things that people have to buy if they should run it up say thirty days from now to 4½ or 5 per cent?

Mr. POLE. I think there is not much question of that, Judge.

Mr. BRAND. Mr. Pole, do you think that any such power as that ought to be lodged in the hands of seven men?

Mr. POLE. I think there should be no change in the number of men in which such power is lodged.

Mr. BRAND. In any given number of men, or a reasonable number?

Mr. POLE. I have not given any thought to the question, as to whether or not the membership of the Federal Reserve Board should be reduced or increased.

The CHAIRMAN. Will the gentleman yield there?

By your answer, I am inferring that the Federal Reserve Board fixes the discount rate—is that correct?

Mr. POLE. The Federal Reserve Board approves or disapproves any change in the discount rate.

The CHAIRMAN. Do they ever initiate, or have they ever initiated, a rate?

Mr. POLE. That would be a question that you would have to inquire of the Board.

The CHAIRMAN. But you are a member of the Federal Reserve Board?

Mr. POLE. I have been a member since I have been Comptroller of the Currency.

The CHAIRMAN. During your term of office as a member of the Federal Reserve Board, have they ever initiated a change in the discount rate?

Mr. POLE. Not to my knowledge.

The CHAIRMAN. Referring to Judge Brand's question about the lowering of the discount rate to 3½ per cent, that is the lowest rate since the summer of 1927, is it not?

Mr. POLE. I believe so.

The CHAIRMAN. What effect did the lowering of the discount rate have in the summer of 1927?

Mr. POLE. It had a stimulating effect.

The CHAIRMAN. Stimulating to what extent?

Mr. POLE. I was not a member of the Federal Reserve Board then.

The CHAIRMAN. No; but you have an observation.

Mr. POLE. A marked extent.

The CHAIRMAN. Is it not a fact that it did stimulate commodity prices about 3 per cent?

Mr. POLE. It did stimulate commodity prices, but to what extent I would not be prepared to say.

The CHAIRMAN. It stimulated speculative activities too, did it not?

Mr. POLE. I think so.

The CHAIRMAN. And it resulted in the export of a large amount of gold, did it not?

Mr. POLE. There was a considerable amount of gold exported about that time, but as to whether or not that was the reason for it, I could not say.

The CHAIRMAN. Well, inasmuch as the rate is now lowered to 3½ per cent, do you think that similar results will come about?

Mr. POLE. It might have that tendency.

The CHAIRMAN. Do you think it might encourage speculation?

Mr. POLE. That was embraced in your question. I say, it might have that tendency.

The CHAIRMAN. All right.

Mr. STEAGALL. Just in that connection, with your permission, Mr. Brand—

Mr. BRAND. Yes.

Mr. STEAGALL. It was the avowed purpose of the Federal Reserve Board, and was made known to the public some months back, that the rate should be fixed with reference to its effect upon speculation, was it not?

Mr. POLE. I know of no such statement on the part of the board.

Mr. STEAGALL. Maybe I have not expressed myself clearly in a technical way.

Mr. POLE. It is possible that such a statement might have been made, but I say that if it was made I am not familiar with it.

Mr. STEAGALL. Well, in any event, the board did issue a warning, the avowed purpose of which was to notify the public that the rates would be adjusted in order to affect the situation unless the necessity for it was removed. That happened, did it not?

Mr. POLE. The act passed clearly indicates that Federal reserve credit is not intended to be employed in speculative transactions.

Mr. STEAGALL. I understand that, and I am not raising any question about that. The inquiry up to the point where I came into the discussion was with respect to the effect of the change or the various changes in rates and as to what purpose was contemplated by those changes, and, as I understand the situation, this change that was recently made was not accompanied by any public statement from the Federal Reserve Board—is that right?

Mr. POLE. As far as I know.

Mr. STEAGALL. But heretofore the board has issued statements to the public respecting changes in rates and the purpose sought to be accomplished by those changes—is not that true?

Mr. POLE. There have been statements made by the Federal Reserve Board, but my recollection is vague as to the particular language of them. Those statements of course could be supplied for the record if you desire them.

Mr. STEAGALL. Mr. Pole, I believe you said in answer to a question by Mr. McFadden that the Federal Reserve Board did not initiate rates. As a practical matter, is not this true, that no Federal reserve bank acts in a matter of that sort without a full consultation and understanding with the Federal Reserve Board? That is the way those changes are made, is it not?

Mr. POLE. I think that is not a fact.

Mr. STEAGALL. Do you think in practice that the Atlanta bank would ever change its rate to the extent of the change recently made in New York without first taking up the matter for discussion with the board here?

Mr. POLE. Yes.

Mr. STEAGALL. They do that?

Mr. POLE. Yes.

Mr. STEAGALL. I had this thought, that the mere technical expression describing what the board does with respect to the initiation of a rate was a sort of a technical differentiation that meant little in practice. It was my idea that in a matter of that importance, the district bank would bring the Federal Reserve Board into conference so that such action would not be said necessarily to have been initiated by the Federal Reserve Board, nor, on the other hand, would it have been done independently of them, but that, as a practical proposition, it would be in the nature of joint action.

Mr. POLE. As a practical proposition, Mr. Steagall, it is sometimes by certain banks discussed prior to any change on the part of such bank, but not generally so.

Mr. STEAGALL. What is the practice of the Federal Reserve Board with reference to changes proposed by the different Federal reserve banks?

Mr. BRAND. You mean as to the rate of discount?

Mr. STEAGALL. In the matter of fixing the rates of discount?

Mr. POLE. Whenever there is a rate change proposed, the board discusses the question very thoroughly and approves or disapproves it.

Mr. STEAGALL. Have there been instances where the Federal Reserve Board disapproved such rates?

Mr. POLE. Yes.

Mr. STEAGALL. How many instances of that kind?

Mr. POLE. I am not prepared to answer that.

Mr. STEAGALL. What occurred when that situation arose?

Mr. POLE. When the Federal Reserve Board disapproves a rate, the rate remains unchanged.

Mr. STEAGALL. Have there been instances where a rate was put in effect, and announced by a district bank, and then for lack of approval of the Federal Reserve Board, that rate would be withdrawn or changed?

Mr. POLE. There may have been such instances, Mr. Congressman.

Mr. STEAGALL. What would you think of legislation to fix a uniform rediscount rate?

In the first place, let me ask you this question: What would you think of requiring a uniform rediscount rate for all the banks, the 12 banks?

Mr. POLE. That is entirely too large a question to answer off-hand.

Mr. STEAGALL. Each bank has access to the loaning facilities of all the other banks, has it not?

Mr. POLE. Yes.

Mr. STEAGALL. It is one great system under one control, as far as the Government is concerned?

Mr. POLE. Yes.

Mr. STEAGALL. That leads to the other question: What would you think of fixing the rediscount rate by law?

Mr. POLE. I have not given consideration to that question and could not answer it off-hand. It is far too important.

Mr. BRAND. As I understood you, Mr. Pole, none of the 12 Federal reserve banks on its own responsibility decreases the discount rate without first consulting the Federal Reserve Board?

Mr. POLE. You misunderstood me. I said that the rates were initiated by the banks themselves and were subject to the approval or disapproval of the board.

Mr. BRAND. Suppose that the board disapproves a proposed increase or decrease; is that final and binding on the proposing bank?

Mr. POLE. The board has the right to approve or disapprove.

Mr. BRAND. Have you ever known of the Federal Reserve Board disapproving any rate, either a decrease or increase in the discount rate, proposed by the New York Federal Reserve Bank?

Mr. POLE. Yes.

Mr. BRAND. Was it a decrease or increase?

Mr. POLE. Both.

Mr. BRAND. I am surprised to hear that.

Now, Mr. Steagall, of Alabama, Mr. Chairman, has asked two questions that I intended to propound, so I will finish very briefly.

Mr. Pole, does not the Federal Reserve Board recognize that they have full authority under the Federal reserve act to suggest to any Federal reserve bank an increase or decrease in the discount rate?

Mr. POLE. I do not know what the opinion of the board is on that subject.

Mr. BRAND. Have they, in any given instance, suggested to any of the banks, within your knowledge, a decrease or increase in the discount rate?

Mr. POLE. If they have, I am not aware of it.

Mr. BRAND. I am going to ask you another broad question. Do you not think that the Federal Reserve Board feel that they have the

authority, under the provisions of the Federal reserve act, to increase or decrease the discount rate so as to effect the prices of farm commodities and the prices of every other thing people purchase?

Mr. POLE. I could not speak for the board, Mr. Brand.

Mr. STEAGALL. Your question was whether, under the provisions of the law, they contend that they have that authority?

Mr. BRAND. Yes.

Mr. POLE. It is a question of interpretation. I would not be authorized to speak for the board on that subject.

Mr. BRAND. Mr. Pole, let me get down to a more practical and personal proposition.

As I understand, in one of the counties of the State of Georgia, and I know it is so of one or two counties in the State of Alabama, and I know it is so of one of the counties in Mr. Stevenson's district, every bank in the county has failed. Take the State of Georgia; it has repealed the law which authorized the establishment of branch banks. That county has no banking facilities, on account of three banks having failed in the last 60 days.

Now, what system of banking would you advise the people of such a county as that to adopt, where they can have no branch bank under the law—would you advise either the chain or the group banking proposition?

Mr. POLE. Between chain and group banking, I prefer group banking.

Mr. BRAND. Then, under the law of Georgia, it permitting no branch banking at present, the Atlanta banks, for instance, could establish a bank down in that county where there are now no banks, could they?

Mr. POLE. An independent bank, the stock of which might be owned by certain persons who were interested in the Atlanta bank.

Mr. BRAND. It would have to be an independent bank, but it would be within the classification of group banking?

Mr. POLE. The majority of the stock perhaps might be controlled by the holding company in Atlanta.

Mr. BRAND. As our law exists at present, there is no opportunity for those people to establish a branch bank in that particular county, is there, under the McFadden bill or any other bill?

Mr. POLE. No, assuming that your Georgia law does not permit the organization of a State system of branches.

Mr. BRAND. They have repealed that law.

Do you not think, and is it not your opinion, that it lies within the power of the Federal Reserve Board, by adopting a policy of deflation or inflation, absolutely to control the price of farm commodities, thereby having the effect to increase or decrease the same?

Mr. POLE. I think action might be taken by the Federal Reserve Board which would affect the prices of commodities.

Mr. BRAND. Like cotton, for instance, and wheat and corn. It has done it in the past, has it not?

Mr. POLE. I think the prices of commodities, as I said before, have been affected by the rate changes.

Mr. BRAND. Does not the board so construe its Federal Reserve Act as to give its board the authority—if the board wishes to exercise it—to adopt such a policy as to run the prices of farm commodities down, cotton for instance?

Mr. POLE. As I stated before, Judge, assuming that you have reference to the increase or decrease in the discount rate, those changes are initiated by the Federal reserve banks themselves and not by the Federal Reserve Board.

Mr. BRAND. I was talking about the effect that it would have. Suppose that the Federal reserve banks get together and decide that they are going to deflate the prices of all farm commodities, and their action is approved by the Federal Reserve Board—and you say that they generally approve what they ask.

Mr. POLE. I did not say that.

Mr. BRAND. I thought you said that they generally approved.

Mr. POLE. Not at all. I said quite the contrary. I said they did not always approve.

Mr. BRAND. I said generally.

Mr. POLE. I would not go so far as to say that.

Mr. BRAND. Suppose that the 12 Federal reserve banks did decide that the prices of wheat and cotton are too high, and that their action were approved by the Federal Reserve Board; could they not effect a substantial decrease in the prices of cotton, wheat and corn?

Mr. POLE. I could not answer that question, Judge.

Mr. SEIBERLING. May I ask just one question there?

Mr. BRAND. Yes.

Mr. SEIBERLING. Mr. Comptroller, is it not a matter of quite current knowledge that the deflation following the war, which resulted in the big collapse in 1921, was caused by the Federal reserve banks extending credit so as to keep Liberty bonds at par that had been sold to the public?

Mr. POLE. There are some who entertain such an opinion as that.

Mr. SEIBERLING. You do not know whether that is a fact or not?

Mr. POLE. As to what their reasons might have been for a low rate of rediscount, I would not precisely be able to say.

Mr. SEIBERLING. When they found that they could not keep Liberty bonds at par—and they went down, I think, to 85, was it not?

Mr. POLE. I think it was.

Mr. SEIBERLING. Then they contracted the credit, because they could not go any further.

Mr. POLE. Credit was contracted, but as to whether it was because they could not go further or not is debatable.

Mr. SEIBERLING. The object of liberalizing credits was not accomplished, and they had to reverse the thing.

Mr. BRAND. I had not finished my question, Mr. Pole, in connection with the increasing and decreasing of the discount rate. I asked the question if the board did not feel that they had authority to adopt a policy, in connection with the banks, which would have the effect of decreasing or increasing the price of farm commodities, if they saw fit to adopt such a policy?

Mr. POLE. You are asking me, Judge, to represent the opinion of the board, and I can not do that.

Mr. BRAND. Do they not claim that they have that authority?

Mr. POLE. I do not know what the board does claim, Judge.

Mr. BRAND. I do not mean to ask an unfair question.

Mr. POLE. I know you do not.

Mr. BRAND. That is all I care to ask.

The CHAIRMAN. Mr. Goldsborough?

Before you start, Mr. Goldsborough, I would like to finish with Mr. Pole for this period. Later on, of course, we will have to have Mr. Pole back again, but I am trying to arrange to finish with him to-day. I do not want to hurry you unduly, Mr. Goldsborough, but we still have Mr. Busby and Mr. Dunbar, and if you can arrange it so that we can finish with Mr. Pole to-day, I think we should do so.

Mr. POLE. It is very kind of you, Mr. Chairman; I should appreciate it very much.

The CHAIRMAN. The Comptroller has been very liberal in giving us his time, and he has also given us very material information.

Mr. GOLDSBOROUGH. Mr. Pole, getting back to what seems to be a little closer to the subject that we are here to discuss, I understood you to say a few minutes ago that you favored group banking over chain banking. Did I understand you correctly?

Mr. POLE. Of the two, I should prefer group banking.

Mr. GOLDSBOROUGH. You do not think that either type of banking is sound or good, do you?

Mr. POLE. I would not undertake to say that, Mr. Goldsborough.

Mr. GOLDSBOROUGH. Do you favor chain banking?

Mr. POLE. I do not.

Mr. GOLDSBOROUGH. Do you favor group banking?

Mr. POLE. As an ultimate system, I do not.

Mr. GOLDSBOROUGH. How do you distinguish between an ultimate system and the system that is existing at this time?

Mr. POLE. Under the present law, branch banking is not possible. Group banking is possible under the present law, and I know of very many instances where groups have been formed which have resulted in great benefits to the communities in which they are operating, so that there is much good in group banking. I also know of individual chains of banks which are operating successfully and are well and carefully managed; but, speaking of them as systems of banking, I much prefer the branch banking idea.

Mr. GOLDSBOROUGH. I understand, but do you care to say whether or not you approve of chain and group banking? You answered before, but then you appeared to have modified your statement. Do you care to make a direct statement as to whether you do or do not approve of group banking or chain banking as being sound in theory?

Mr. POLE. I do not approve of chain banking. I do not approve of group banking as a system of banking which is best adapted to this country.

Mr. GOLDSBOROUGH. Now, would you favor legislation which would make chain banking impossible if it were possible to formulate such legislation, as chain banking is now conducted?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. Would you favor legislation, if such were possible, which would do away with group banking, as now conducted?

Mr. POLE. That involves the question as to what legislation would be offered to take the place of group banking, I think. If you ask me the question whether group banking should be abolished, and undertake to unscramble those groups which have already been formed, I would not be in favor of that, but I would be in favor of

regulating those groups by the extension of supervisory powers on the part of the comptroller. But as to legislation which might affect the future expansion of group banking, I think that I should be in favor of limiting that and regulating it.

Mr. GOLDSBOROUGH. You would not be in favor of stopping it for the future and making it impossible either to increase the size of the present groups or form other groups in the future?

Mr. POLE. I think that that would correct itself automatically, if banks were given the privilege of extending, through the method of operation of branches.

Mr. GOLDSBOROUGH. Of course I know your view on branch banking and if you would rather not answer my question, sir, it is perfectly satisfactory to me. I would rather have you say you do not prefer to answer than seem to evade it.

Mr. POLE. It is a pretty involved question; you are asking me what I would rather do——

Mr. GOLDSBOROUGH. My question was not involved. Read the question.

(The reporter read the question.)

Mr. GOLDSBOROUGH. That question certainly is not involved, as far as I can tell.

Mr. POLE. It would depend upon what you have to offer in place of group banking. If such legislation as you speak of proposed to give something in place of group banking, I would say yes to your question. If it offered nothing at all by way of substitute legislation, my answer would be no.

Mr. GOLDSBOROUGH. Your answer is, as I understand it, this, that if you can not have branch banking, you prefer group banking to the unit banking?

Mr. POLE. Yes, sir.

Mr. GOLDSBOROUGH. I think, in your various——

Mr. POLE. May I add something there?

Mr. GOLDSBOROUGH. Yes.

Mr. POLE. Under proper regulation.

Mr. GOLDSBOROUGH. I may be confusing what you have said with what others have said, and I am not sure that you made the statement that I am now about to refer to.

In the various addresses you delivered this summer, or in your report to the Federal Reserve Board, I believe you stated, did you not, one reason for the extension of the right to establish branches of banks, was the fact that these groups were being formed that you did not approve of? I may be wrong about that. That is only my recollection. I know that has been said a great many times.

Mr. POLE. I have made objections to the group banking system, Mr. Goldsborough, in my addresses, my particular reasons being that it is difficult to supervise groups of banks by reason of the fact that many groups are composed of national banks, of member banks, and of nonmember State banks, some of which we have jurisdiction over and some of which we have not, and for other reasons, and I think I have usually said as an ultimate system, I was very much in favor of branch banking as against group banking.

Mr. GOLDSBOROUGH. Your idea is, I suspect, that if it were permitted further to extend branches in accordance with the plans which

you have suggested, that that would tend to abolish or do away with group banking, automatically?

Mr. POLE. I feel quite sure that the groups themselves, at least in a large number of cases, would prefer to operate under the branch system rather than the group system and I think that that would automatically change from one to the other.

Mr. GOLDSBOROUGH. Now, the State of California has had extensive systems of branch banking for quite some years, has it not?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. The group banking began, I think, not more than two years ago. Is not that right? I do not mean in California; I mean anywhere, as far as we know it?

Mr. POLE. I think that is correct, including California.

Mr. GOLDSBOROUGH. Including California?

Mr. POLE. Yes, sir.

Mr. GOLDSBOROUGH. Now, is it not a fact that in California there has been a great extension of group banking, as in other parts of the United States?

Mr. POLE. I should say by no means.

Mr. GOLDSBOROUGH. Well, I did not anticipate that answer, but the December number of the Federal Reserve Bulletin states what I am saying to you now.

Mr. POLE. Oh, does it? I am perfectly willing to accept your statement for it. I was not aware that group banking had developed in California to the same degree that it had in other States.

Mr. GOLDSBOROUGH. I did not bring the Bulletin with me. I did not anticipate that answer.

Mr. POLE. I am surprised when you make that statement but no doubt your information is correct.

Mr. GOLDSBOROUGH. Of course, if my premises are not correct, it is not worth while to discuss it further—that is, if my premises do not agree with yours.

Mr. POLE. That is a question of fact.

Mr. GOLDSBOROUGH. Of fact; yes.

Mr. POLE. Decidedly so.

Mr. GOLDSBOROUGH. Assuming that is the fact, certainly branch banking in California did not interfere with the development of group banking in California?

Mr. POLE. Well, Mr. Goldsborough, branch banking is not permitted any more in California than it is in any other State.

Mr. GOLDSBOROUGH. But it has been extended so much further than any other States—

Mr. POLE. Not since the passage of the McFadden Act. These systems were inaugurated and in operation prior to that time.

Mr. GOLDSBOROUGH. Yes.

Mr. POLE. No branches have been created outside of the cities since that time.

Mr. GOLDSBOROUGH. They have state-wide branch banking there too?

Mr. POLE. Neither can a large bank or any other bank operate a system of branches unless it wishes to remain outside of the Federal Reserve System.

Mr. GOLDSBOROUGH. Well, the point I was emphasizing or trying to emphasize, was that branch banking had not stopped group banking.

Where branch banking has been in existence in a very practical way, it has not interfered with group banking, where you indicate your branch banking system would probably do away with a system that you probably disapprove of.

Mr. POLE. There is no branch banking now.

Mr. GOLDSBOROUGH. In California?

Mr. POLE. They can not extend their branch banking systems and remain in the Federal Reserve System.

Mr. GOLDSBOROUGH. I am thoroughly aware of it. But they do have branch banking and have it all over the State and it has not stopped group banking.

Mr. POLE. It would stop group banking, in my opinion, if those groups were permitted to operate under a branch system. But it is because there is no right for a bank to operate branches that the group systems are developing.

Mr. GOLDSBOROUGH. Then, as you said a few moments ago, the group system is a lesser evil than the unit system?

Mr. POLE. I said that a group system was preferable to the chain system.

Mr. GOLDSBOROUGH. You said it was preferable to the unit system, also?

Mr. POLE. Yes; I would agree with that.

Mr. BRAND. What do you mean by "unit system"?

Mr. GOLDSBOROUGH. Independent banks.

The CHAIRMAN. Will you yield for a question?

Mr. GOLDSBOROUGH. If you can defer your question, I would appreciate it, because I think I have something going now.

The CHAIRMAN. I think this is in line with your questions.

Mr. POLE. I want to ask, in line with the questions that have been put and answered, in regard to chain and group banking: You have recommended that branch banking be extended to trade areas and stop there. I think that is correct, is it not?

Mr. POLE. Yes; except that I—

The CHAIRMAN. You have also said that you would like to prohibit the control of those main banks in trade areas by another group or bank; for instance, like—

Mr. POLE. A consolidation of a large group so as to form a banking monopoly.

The CHAIRMAN. Yes.

Mr. POLE. I have.

The CHAIRMAN. If you stop there, group banking and chain banking will continue as it is now operated under State law, will it not?

Mr. POLE. It might do so.

The CHAIRMAN. Then, under your plan, you would not stop group and chain banking in the United States?

Mr. POLE. There might still be chains and groups formed after the passage of such branch banking legislation as I have suggested.

The CHAIRMAN. It is all proceeding under State law now, and no national law could forbid the continuance of State group and chain banking, could it?

Mr. POLE. The fact that the Federal reserve system might, as a condition of membership, impose such conditions as would make it impracticable, might stop it.

The CHAIRMAN. Is that your suggestion for controlling it?

Mr. POLE. I made no suggestions for controlling that, Mr. Chairman

The CHAIRMAN. Do you care to make a suggestion?

Mr. POLE. Not at this time.

The CHAIRMAN. Well, inasmuch as you have asked for an extension of branch banking to trade areas and you have expressed your unqualified opposition to group and chain banking—

Mr. GOLDSBOROUGH. Not to-day, but previously, as I understand it. To-day he defends group banking over unit banking, as I understood his answer.

The CHAIRMAN. I think it would be helpful to the committee if you will tell the committee just how you propose to stop group and chain banking under your plan of extending branch banking in trade areas.

Mr. POLE. My plan is this: If banks are given the right to operate branch systems, the advantages would be such as to automatically convert these groups and chains into branches for the most part.

Mr. GOLDSBOROUGH. Mr. Pole, the arguments which have been made by you, I think, as well as others, in favor of branch banking, have been that it is necessary to do it in order to enable the national bank system to compete with State banking systems which do permit branch banking. That is a fact, is it not?

Mr. POLE. That is a factor.

Mr. GOLDSBOROUGH. You distinguish between a fact and a factor?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. I see. Now, Mr. Pole, suppose it were practicable for Congress to pass legislation which would entirely stop branch banking within the States. Would you still then recommend an extension of branch banking by the Federal Government?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. Suppose it were possible for Congress to pass legislation which would stop chain and group banking right where it is within the States—State banks—would you then think it proper for Congress to pass legislation which would stop further group or chain banking among national banks?

Mr. POLE. Not without offering something in its place.

Mr. GOLDSBOROUGH. Do you not think in communities where banks have failed on such a scale as to indicate there was something radically wrong, that the community had failed first before the bank had failed?

Mr. POLE. Under the present system that might be correct.

Mr. GOLDSBOROUGH. Is it not a fact, Mr. Pole, that this condition of failures, which you have testified to, and which has been made a matter of comment in numerous articles by yourself and others during the last six or eight months, is almost entirely directly attributable to the after-war conditions in this country?

Mr. POLE. No. The number of banks which have failed includes a large number of banks which have been organized since the war.

Mr. GOLDSBOROUGH. Well, I do not know about the percentages.

Mr. POLE. It is at least 10 per cent.

Mr. GOLDSBOROUGH. How is that?

Mr. POLE. At least 10 per cent of failures have been of banks which have been organized since the period referred to.

Mr. GOLDSBOROUGH. I will change the question. Is not substantially all of the 90 per cent of banks which were in existence prior to the war and which have failed since the war, have not these failures been the result of after-war conditions?

Mr. POLE. I should say not.

Mr. GOLDSBOROUGH. Do you not believe it is true to a very great extent?

Mr. POLE. To an extent, Mr. Goldsborough

Mr. GOLDSBOROUGH. Have you any idea to what extent?

Mr. POLE. Well, to a considerable extent.

Mr. GOLDSBOROUGH. Do you think it is fair, in attempting to conduct a judicial—I am not referring to these hearings here—in attempting to argue this matter judicially, do you think it fair to lay the great accent which has been laid on the failure of small banks since the war in the last nine years, as any real evidence of the breaking down of the unit system?

Mr. POLE. I do, indeed.

Mr. GOLDSBOROUGH. You have just said that you thought after-war conditions were very largely the cause of these failures. You could not tell to what extent. If you can not tell to what extent, but you think to a large extent, how are you in a position to say?

Mr. POLE. I think failures have been accentuated to a considerable extent by the economic conditions in the agricultural sections of the country, but I do not think that is the basic reason.

Mr. GOLDSBOROUGH. Mr. Pole, is it not a fact that banks have been gradually failing and trying to hold on and one would be a little stronger than another and then first one would fail and then another, almost all due entirely to after the war deflation? Banks filled with frozen paper, bad mortgages, etc., have been just hanging on and gradually, first one then another, would fail as time went by. We countrymen have understood that to be the condition.

Mr. POLE. I agree that that has had its effect.

Mr. GOLDSBOROUGH. Now, if that is the cause, if that is the reason, it does not constitute an argument against the unit system. If a man has got a pimple on his hand and it may be caused from fifty different diseases, no doctor would say, arbitrarily, it was because of some disease he was interested in, you know.

Now, Mr. Pole, I have made rather careful inquiry from the Bureau of Investigation of the Federal Reserve Board and I may be mistaken—I will not undertake to tie them into this because they may say I am wrong and they might not have meant exactly what I thought was in their minds—but I am strongly of the opinion that they think that a substantial number of these failures which have happened in the last nine years, are directly caused by the after-war deflation.

Mr. GOLDSBOROUGH. Do you think it is possible—practically possible—for a bank of \$25,000 capital to make a success?

Mr. POLE. There are such banks that can be made successful and are successful to-day.

Mr. GOLDSBOROUGH. Do you think it is possible for a bank with a less capital than \$25,000 to succeed?

Mr. POLE. There are undoubtedly banks with less than \$25,000 capital succeeding.

Mr. GOLDSBOROUGH. A mere illustration is never convincing, but in 1909, I was the attorney in the set-up of banks in my own community with a capital stock of \$12,000. They both have been wonderfully successful.

I sent for the last statements of each bank, but I have had only one answer so far. This institution has been in existence in a little place of 300 inhabitants for nearly 21 years now. It has absolutely around it nothing but a rural community and is surrounded, within a radius of 7 or 8 miles, by large banks in county seats—comparatively large banks. That bank paid a dividend of 6 per cent from its inception. Since 1918 it has paid a dividend of 20 per cent. It has always paid 4 per cent on savings deposits. It has about \$4 in the savings deposits to every \$1 it has in commercial deposits, and its stock is now worth 8 for 1. Its capital stock is \$12,000; surplus \$75,000 and undivided profits, \$7,928.80, according to this last statement. Its deposits are \$780,000 plus. It pays its cashier \$3,200 a year. That is the Hillsboro, Queen Anne, Bank of Hillsboro, Md.

The other bank I have in mind is the Goldsborough Bank of Goldsborough, Md., a village of about 150 inhabitants. It has done nearly as well.

Do you think that the banking business is like any other business? If you are a good banker, your bank makes money and if you are not a good banker your bank does not make money? Do you not think that is the real crux of the situation?

Mr. POLE. I think that is a very important phase of it and much more important, perhaps, than the question of economic conditions to which you refer.

I assumed these banks to which you refer were not affected by the economic conditions?

Mr. GOLDSBOROUGH. Yes sir; after the war they were loaded up, but came out all right.

Mr. POLE. By reason of good management?

Mr. GOLDSBOROUGH. By reason of good management; yes. The section, the eastern shore of Maryland, is just as distinctly rural as Iowa. I am satisfied of that.

Mr. POLE. My point is that the reason for the bank failures in communities is not entirely—I think you used the word—due to economic conditions because these banks, as you say, were just as subject to them as other banks in rural communities. It survived and other banks failed.

Mr. GOLDSBOROUGH. Mr. Pole, with the good roads we have now and telephones, radio and frequent bank meetings and the very, very close touch that the country banks are in now with the metropolitan banks, do you not think that country bank management is improving very, very rapidly, especially in the last 10 years, just as the country doctor or country lawyer and other professional men are gradually reaching the average level?

Mr. POLE. We have in our office so very, very many evidences of poor bank management, Mr. Goldsborough, that it is doubtful, in my mind, as to whether the better element among the bankers is finding a resting place among the small country banks. I doubt very much whether the management of country banks, speaking generally,

has improved, perhaps in proportion to the other branches of business and professions.

The CHAIRMAN. Will you yield a moment?

Mr. GOLDSBOROUGH. Just one other question, if you can reserve that.

I have an article that I cut out of some paper yesterday. I think it is the Marylander and Herald, probably one of our local papers. It is in the pot metal type and evidently taken from some city paper.

A survey of State banking departments by the State bank division, American Bankers Association, discloses a distinct tendency the last five years to take bank supervision out of politics, to increase the discretionary powers of bank commissioners, to lengthen their terms of office, to supply them with adequate forces of qualified examiners and to relieve banking departments of duties foreign to banking, says a recent statement.

Then the statement continued, and finally this is said:

The office of bank commissioner is now operated as an independent department of State government in 34 States.

Do you not think that the management of country national banks is comparable to the management of country State banks?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. And do you not think that the management of country State banks is being greatly assisted by the increasingly efficient State bank departments?

Mr. POLE. No doubt the State banking departments do render a great deal of assistance to the executives of the banks in the matter of management.

Mr. GOLDSBOROUGH. Now, Mr. Chairman, I beg your pardon. I wanted to finish that line.

The CHAIRMAN. Have you finished with the witness?

Mr. GOLDSBOROUGH. Oh, no.

I gather from what you stated the other day, that you thought mergers in the central reserve cities of New York and Chicago had proceeded far enough. Did I interpret what you said correctly?

Mr. POLE. I do not recall having made such a statement as that, Mr. Goldsborough.

Mr. GOLDSBOROUGH. Well, my recollection is quite distinct, but, of course, I may be wrong. Mr. Busby thinks you stated you are in favor of larger banks.

Mr. BUSBY. My recollection is that in a very short answer you stated that you were not in favor of larger banks than now existed in centers like New York and Chicago.

Mr. AWALT. He did not say that.

Mr. BUSBY. Then, the answer is, he did not say that.

Mr. POLE. Let me answer my own questions.

(Discussion off the record.)

Mr. GOLDSBOROUGH. I will put my question another way. My recollection of the statute is that the Comptroller of the Currency has to approve mergers.

Mr. POLE. Consolidation.

Mr. GOLDSBOROUGH. That is the same thing, as far as I know.

Mr. POLE. Practically so. I might qualify it by saying that the Comptroller of the Currency approves consolidations, but a bank has the right to purchase the assets and assume the liabilities of

another bank, without approval of the comptroller, which is, in effect, a merger without the approval of the comptroller.

Mr. GOLDSBOROUGH. Mr. Pole, last summer the Guaranty Trust Co. and the National Bank of Commerce consolidated, did they not, in New York?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. Was that consolidation approved by the Comptroller of the Currency?

Mr. POLE. No, sir; it was a consolidation under State charter, the national bank going into liquidation. The comptroller's approval was not necessary.

Mr. GOLDSBOROUGH. Now, Mr. Pole, suppose the National City Bank and some other large institution in New York wanted to consolidate—really wanted to do it and made up their minds to do it, and set the machinery to work with the vast influence they have, to get the consent of any Comptroller of the Currency?

Mr. POLE. Yes.

Mr. GOLDSBOROUGH. The only thing he could do would be to grant the permission?

Mr. POLE. Not at all.

Mr. GOLDSBOROUGH. The only practical thing to do?

Mr. POLE. Not at all.

Mr. GOLDSBOROUGH. I am not referring to you, you understand.

Mr. POLE. I understand.

Mr. GOLDSBOROUGH. You never were subject to that ordeal, were you, of trying to resist a situation of that kind?

Mr. POLE. Of that magnitude, no; but of considerable magnitude, yes.

Mr. GOLDSBOROUGH. It is not pleasant, is it?

Mr. POLE. By no means, but it is done.

Mr. GOLDSBOROUGH. It is done up to a certain point and then resistance breaks down inevitably.

What I am trying to get at is this: Of course, your theory is that under this trade area plan of yours, there would be sufficient competition always to protect the rural communities from autocratic credit domination.

Mr. POLE. That is my feeling.

Mr. GOLDSBOROUGH. Is it not a fact that as groups get larger and get further away from smaller groups, they inevitably get closer and closer in their manner of approaching things and in their point of view and in their selfish interests? There is pretty near consolidation there at the top. Now, two, three, four, five, or six very large institutions in a city who, together, dominate the credit situation, gradually find it to their interest not to fight each other but to cooperate in their policies, and so, even though they do not consolidate, is there not a tendency for them so to cooperate in matters of policy with those who are nearly as strong as they are, so as practically to do away with any real competition? That is my experience in other walks of life.

Mr. POLE. With regard to banks, I would not see why there would be any more reason for diminishing competition than there is now. Banking competition is rife in the cities. Just because they were permitted to put out small branches in that direction or this direction, do you think that would make competition any less keen? With

enlarged opportunities for banks, would competition be any less keen? I should think not. I think it would be accentuated.

Mr. GOLDSBOROUGH. You do not think gradually and more gradually they would find that it was to their interest to merge to stop competition?

Mr. POLE. I think there might be a certain amount of merging going on, as there is to-day, but I do not think the time would ever come when the banking business of the country would be consolidated in a very few hands. Banking is a business, and if properly conducted is a profitable business and a necessary business, and I see no reason why competition should not be keen.

Mr. GOLDSBOROUGH. Now, Mr. Pole, in this country at this time, we are going through an epoch which is, by a great many, viewed with great alarm. There is a tendency to consolidate in every industry and in every walk of life. Of course, it is very evident in public utilities and chain stores and in mail-order houses, and three things that are right on the surface and that we all see. But it is so in every other business. It is so in the professions; for instance, take the legal profession as an illustration. A man buys an automobile and he insures it. If he has an accident he is represented by the insurance company. The insurance company, in turn, has a law firm in some city which represents it, so that the country lawyer is gradually eliminated.

The same thing exists among the doctors; in other words, what I am driving at is this tendency has gotten into the final place it would drift to and that is the learned professions. Now, it is a tendency.

It may be that 25 or 30 years from now, we will all sleep in the country and all work in the city, because there will not be any other place to work and that our farming will be done by great corporations who own thousands and thousands of acres of land and that work the farms by machinery. This may be inevitable and it may not be possible to stop it no matter how much we may deplore it.

As I see it, any monopoly of credit will accelerate that situation more than anything else, because credit controls everything else economic in the community and is it not the province of statesmanship, if it has any, to rather restrain that tendency than accelerate it, until, of course, it becomes clearly demonstrated that you are in an actual economic cycle?

Is there any reason why we, as legislators, should sit here and deliberately formulate a plan to accelerate that condition unless we think it is a good one? It certainly can not be that the people in the country are suffering for want of banks. I will guarantee we can sit here from now to the first of July, Mr. Pole, and you will not find a single country banker here asking that his bank be transformed into a branch banking system or any community coming here and asking for a branch banking system.

That is my question. Do you think it is the part of legislators, who have the public interest at heart and who are bound to visualize the future, in so far as they can, to accelerate a condition of that kind or to restrain it in so far as it can be done?

Mr. POLE. I do not think it is the part of legislators to participate in such acceleration, but under my suggestion of a branch banking system, the question of decentralization of credit is a very important part of it. I think you will find in very many sections of the country

to-day, that the presidents and executive officials of independent bank are importuning the large group bankers to admit them into their systems. That is my information from those people who are in that business. That, of course, is a matter than can be easily demonstrated, during the hearings as they develop.

Mr. GOLDSBOROUGH. That is all, Mr. Chairman

The CHAIRMAN. Mr. Dunbar.

Mr. DUNBAR. You stated a few moments ago, decentralization of credit is a very important object to be attained by branch banking. Is that right?

Mr. POLE. Yes

Mr. DUNBAR. The other day I made the statement that the argument was used by proponents of the Federal reserve system in favor of the passage of the bill, that decentralization of banking credits would be diverted from New York and I understood you to state that the Federal reserve banking system had decentralized credit from New York, but that the credits had grown in other communities, giving the impression that centralization of banking credits was effective in New York

Now, I get my——

Mr. POLE. I am not agreeing to that

Mr. DUNBAR. I know you are not.

Mr. POLE. I am not agreeing to that being a correct statement of what I said.

Mr. DUNBAR. Pardon me. What did you say?

Mr. POLE. I said that while undoubtedly there had been a large increase in deposits in New York, I was not prepared to say they were out of proportion to the increase of deposits in other parts of the country.

Mr. DUNBAR. That is what I understood you to say and perhaps I did not make my observation and thoughts clear.

Mr. Carter Glass, who was the author of the Federal reserve act, in a speech made the statement that the operations of the Federal reserve system had centralized credit in New York City, and I talked to him yesterday. He said that it was absolutely true that the operations of the Federal reserve system had increased, to a very, very great extent, the centralization of credit in New York City. You do not agree with him?

Mr. POLE. I agree with him, but I do not know whether it has increased out of all proportion to the increase in other sections of the country. There is no doubt but that it has increased in New York.

Mr. DUNBAR. His idea was that it had disproportionately increased and to all intents and purposes, had increased beyond the intention of the proponents of the bill.

Mr. POLE. I am not prepared to say

Mr. DUNBAR. Have you any record of the statements of the credits of banks in New York City before the passage of the Federal reserve act, together with other cities? Of course, now, they have very greatly increased, but have you those statistics from which we could obtain an idea of the proportionate increase in the respective cities?

Mr. POLE. Yes.

Mr. DUNBAR. Will you publish them in your remarks?

Mr. POLE. There will be no objection to publishing them.

(The figures referred to are in course of preparation and will be furnished later.)

Mr. DUNBAR. You said that the capital and surplus of the Federal Reserve System had very largely increased—

Mr. POLE. Yes, sir.

Mr. DUNBAR. The amount of the franchise tax paid to the Federal Government last year by the Federal reserve-system banks, was \$2,900,000. How is the amount arrived at that they shall pay the Federal Government?

Mr. POLE. After paying a 6 per cent dividend to their shareholders. The Federal banks are permitted to increase their surplus and their earnings until it equals the subscribed capital, after which 10 per cent of the earnings go to surplus, and the balance goes to the Government as a franchise tax.

Mr. DUNBAR. After the war, the amount of money paid to the Federal Government, instead of being \$2,900,000 was \$60,000,000 a year, or twenty times more than now paid by the Federal reserve banks. Was that because their earnings were so much greater at that time in proportion to their capital stock?

Mr. POLE. Obviously, I would say so.

Mr. DUNBAR. Then, the Federal reserve banks are not making as much money now as they did nine years ago?

Mr. POLE. I think some of them are and some are making less.

Mr. DUNBAR. Not in the aggregate, because in the aggregate they paid last year to the Federal Government \$2,900,000, instead of \$60,000,000 annually some 9 or 10 years ago.

Mr. POLE. Those complete figures on the earnings of the Federal reserve banks have been furnished the record, Mr. Dunbar.

Mr. DUNBAR. I know, but I would like to know some reason for the fact—

Mr. BUSBY. May I suggest this, that the building program of the Federal reserve banks has taken \$160,000,000 out of the earnings for the last year or two?

Mr. DUNBAR. Would that affect the amount of the franchise tax paid by the Federal reserve banks?

Mr. POLE. Yes, sir.

Mr. DUNBAR. And the suggestion was made the other day that the amount of the franchise tax paid to the Federal Government might be used to reimburse depositors in the national banks which have failed. Would the \$2,900,000 pay the losses—be sufficient to pay the depositors in national banks which have failed and which did not pay their depositors 100 cents on the dollar?

Mr. POLE. It will be impossible to tell that because banks which have failed last year have only started on their liquidation and it will depend on how they liquidate. I think that \$2,900,000 would not be nearly enough to pay that.

Mr. DUNBAR. Another question: The Federal reserve bank has reduced its discount rate to 3½ per cent. What is the amount of discount of the Bank of England to-day?

Mr. POLE. Four per cent.

Mr. DUNBAR. The reduction of the Federal Reserve rate to 3½ per cent, if it is less than the rate charged by the Bank of England—does that cause an outflow of gold from the United States to England?

Mr. POLE. It might make some little difference.

Mr. DUNBAR. It might make some little difference?

Mr. POLE. Yes, sir.

Mr. DUNBAR. Then, that outflow of gold from the United States to England would reduce the available credit of our banks?

Mr. POLE. Well, the gold reserve would have to be very materially reduced before the Federal reserve banks would feel the effect of that.

Mr. DUNBAR. I note in financial newspapers that great importance is paid to the outflow of gold from the United States on our business and credit systems.

Mr. POLE. Yes, sir.

Mr. DUNBAR. So that if there is any outflow due to the 3½ per cent rate, notwithstanding our business men can obtain money at a less amount, it would pretty near balance the situation?

Mr. POLE. I do not think, under the present circumstances, there will be very much outflow of gold. The Federal reserve banks themselves are probably almost at their high point as to gold reserve, so that the difference would not affect, in a practical way, the amount of credit which could be extended by the Federal reserve system.

Mr. DUNBAR. During the last year, the Federal reserve banks were criticised for raising the rates for the purpose of preventing speculation. I do not say they did so, and you would not care to commit yourself on that subject anyway. But was not a large amount of the speculation due to the fact that last year the corporations of the country loaned their surplus for the purpose of speculation?

Mr. POLE. That was a very important factor.

Mr. DUNBAR. The Federal Reserve Bank officials were apprehensive all along that the debacle of speculation would result just as it did, were they not?

Mr. POLE. I can not speak for the Federal Reserve Bank officials.

Mr. DUNBAR. But you believed that?

Mr. POLE. I think that may be correct.

Mr. DUNBAR. Now, another question. You have heard a great deal about the unit bank and about its being driven out of business by branch banking. Branch banking would drive the unit banking system out of existence, according to my notion, the same as chain stores to-day are driving out the individual stores in our respective towns.

Mr. POLE. You are making that statement?

Mr. DUNBAR. I am making that statement. Does it agree with your idea?

Mr. POLE. No.

Mr. DUNBAR. You do not believe that branch banking would drive out the unit banks?

Mr. POLE. It has not done so where branch banks are in operation.

Mr. DUNBAR. How could a branch bank go into a community with several banks of \$100,000 capital and have available to loan in that community \$200,000 to a corporation or an individual instead of \$20,000 and not drive those other banks out? Would not that be a natural sequence?

Mr. POLE. Well, you are assuming a great many things there, Mr. Dunbar. In the first place, if the banking facilities in the particular community to which you refer were ample, it might not be possible

for the branch bank to go in there, with its branches, unless it purchased one of the going banks.

Mr. DUNBAR. I know it could not go in there without the consent of the Comptroller, and also unless it could be shown that the branch bank was needed.

Mr. POLE. That is my answer, substantially.

Mr. DUNBAR. Yes, but it is my opinion that branch banking would go into all these communities. They would find some reason for being established and these unit banks would be eliminated and caused to cease to exist—the local unit banks which we have. Now, you do not believe that?

Mr. POLE. Not necessarily. A great many unit banks will tell you they do not want any better competition than a branch of a city bank.

Mr. DUNBAR. That is all, Mr. Chairman.

The CHAIRMAN. Have you any questions, Mr. Busby? We have just five minutes left.

(Discussion off the record.)

The CHAIRMAN. The committee will stand adjourned until Tuesday morning at 10.30 o'clock a. m.

(Whereupon, at 12.55 o'clock p. m., the committee adjourned until Tuesday, March 18, 1930, at 10.30 o'clock a. m.)

BRANCH, CHAIN, AND GROUP BANKING

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND CURRENCY,
Wednesday, March 12, 1930.

The committee met in the committee room, Capitol Building at 10.30 o'clock a. m., Hon. James G. Strong (acting chairman) presiding.

Mr. STRONG. The committee will come to order, please. The chairman has left with me his list of names of members of the committee to be called in their order, but, before starting to call them, I want to put into the record a letter handed me by Congressman Box of Texas, written to him by one of his constituents on this subject.

Mr. BEEDY. About what?

Mr. STRONG. Branch, group, and chain banking—on this subject. I would like to have the clerk read it.

(The clerk thereupon read the letter referred to, at the conclusion of which reading, the following occurred:)

Mr. BEEDY. Mr. Chairman, I was thinking, as the letter was being read, that we are just starting in on these hearings. I, personally, would like very much to show every courtesy to Congressman Box, but I am wondering if it is not going to be rather dangerous and lead to a great deal of misconception, if we start printing letters indiscriminately in the record.

For instance, I think the use of the word "chain" in that letter is not strictly correct.

Mr. STRONG. I think he refers to branch banking in Canada.

Mr. BEEDY. Exactly; and when he makes his references to the Canadian banks, he is speaking about branch banking.

I do not think we ought to let these generalizations go into the record when the party is not here to be questioned. He makes some very sweeping assertions in his letter and on just what he bases them, the committee has no means of knowing. While I do not want to take an arbitrary stand, I should like to know what the committee thinks about it.

Mr. FORT. It also seems to me that here we are getting a very strong statement from Mr. Pole, and it breaks the continuity, in the record, of his testimony and of his questioning, to insert something like this into the middle of it.

Mrs. PRATT. Mr. Chairman, I want to say that I have received innumerable letters along that line. The question of banking is particularly interesting to my district, but I agree with Mr. Beedy and with Mr. Fort that it is simply cluttering up the record to permit Members of the House to bring in the letters they receive from constituents—

Mr. BEEDY. And every letter introduced would prompt another Congressman to bring in an opposing letter to match it.

Mrs. PRATT. Would it not lead to the introduction of a tremendous amount of correspondence?

Mr. STRONG. Mr. Box handed it to me, stating that with the man's experience, as given in the letter, and his visits to Canada, he thought it would be helpful to the committee. He did not want to come before the committee himself, but wanted to have the letter placed in the record.

I have presented the request, and if you want to refuse it, all right.

Mr. FORT. I do not think the statement should go into the record without an opportunity to examine the witness.

Mr. STRONG. If the committee wants to bar this letter, all right.

Mr. SEIBERLING. It is difficult to discriminate among the letters. For instance, I have a circular letter from some radio company protesting against certain features of branch banking.

Mr. LETTS. Why would it not be a safe rule to permit members of the committee to introduce such letters as they think important and which come to them personally, and to bar others, unless the action of the committee is to the contrary?

Mr. FORT. That does not open the door to any cross-examination of the witness, as to his information. I think we are going to get a lot of information that way, and that we should have an opportunity to cross-examine those making the statements.

Mr. LETTS. You may have a letter from some one in your district that you think contains some important facts, and you, personally, can tell us something about the man and about his experience.

Mr. FORT. I have a lot of them.

Mr. LETTS. So I thought, in my suggestion, we ought not to bar letters offered by members of the committee.

Mr. GOLDSBOROUGH. Would it not be better to take the letters and use them as the basis for cross examination?

Mr. STRONG. Whom would you cross examine?

Mr. GOLDSBOROUGH. When you take a witness, you could say, "I have received such-and-such a letter," and ask him about the statements contained in that letter or letters, and then it would give him a chance to answer.

Mr. FENN. It seems to me since these hearings have been so well advertised throughout the country and a special rule adopted toward them in the House, gentlemen interested in them should take the opportunity and occasion to come here themselves. Personally, I have no objection to the introduction of the letters, except from the standpoint of encumbering the record. You will get one letter one way and another the other way. I think these ex parte statements are of no particular value. They are of no value to me, and I think the other members will take the same view.

Mr. GOLDSBOROUGH. If you have a letter that you think is pertinent, you can then ask the witness about it.

Mr. BEEDY. In order to get the sense of the committee, and in order not to seem to make this personal in its application to Mr. Box's request, I move that the committee do not include in the record any letters except those which are submitted by witnesses who are testifying, in amplifying statements which the witnesses make before the committee.

Mr. FENN. I second the motion.

Mr. STRONG. I just want to call attention to the fact that it is the habit of the chairman very often to introduce matters sent to him.

Mr. BEEDY. He can do it through witnesses.

Mr. GOLDSBOROUGH. That, then, includes the chairman?

Mr. BEEDY. Yes.

(The motion was carried.)

STATEMENT OF J. W. POLE—Resumed

Mr. STRONG. Mr. Luse is the next interrogator, but he is delayed, and Mr. Fenn is the next.

Mr. SEIBERLING. Does this letter go out of the record?

Mr. STRONG. It is not included in the record. The chairman has adopted the plan of going down the committee, according to the rank of the members, giving them each another chance to cross-examine Mr. Pole, and you are next, Mr. Fenn.

Mr. FENN. I have no other questions.

Mr. STRONG. Mr. Campbell is next. He is absent. Mr. Beedy is next.

Mr. BEEDY. I do not care to question Mr. Pole.

Mr. STRONG. Mr. Hooper is next.

Mr. HOOPER. I have not asked any questions yet, because I was away when my turn came. I should like to ask one or two questions that have been brought up or suggested by the letter that was read here.

I will say to Mr. Pole that my attention has been called to a letter which covers the banking situation in Canada. The Canadian system, Mr. Pole, is a system of what sort of banking?

Mr. POLE. Branch banking.

Mr. HOOPER. The banking business in Canada is largely done by a small number of large banking organizations, such as the Bank of Montreal, the Bank of Nova Scotia, the Royal Dominion Bank of Canada, and others of that kind—is not that true?

Mr. POLE. Yes, sir.

Mr. HOOPER. This is typical of branch banking? The banks which the Bank of Montreal controls out through the Dominion of Canada are branches of that bank, are they not?

Mr. POLE. The question has to do with the branch banking system as it is operated in Canada?

Mr. HOOPER. In the Dominion of Canada.

Mr. FENN. May I interrupt a moment?

Mr. HOOPER. Certainly.

Mr. FENN. The Canadian banks have not only branches throughout Canada proper, but I know the Bank of Nova Scotia, the Bank of Montreal, and the Royal Bank of Canada, and others have branches in the West Indies, too.

Mr. POLE. Yes, and overseas.

Mr. FENN. The banks in general—

Mr. POLE. I had not quite finished my answer.

Mr. FENN. I wanted to point out how widely that system is operating.

Mr. POLE. Very widely. The branch banking system in Canada differs very materially from the branch banking system which I

suggested, the difference being that they cover the entire country. My plan would be to develop a branch banking system within restricted trade areas.

Mr. HOOPER. Your idea, Mr. Pole—

Mr. POLE. Instead of having 10 banks, as they have in Canada, the probability is that we would have several hundred banks in this country.

Mr. HOOPER. I was not trying to contrast the system in Canada with that of the United States, but what I wanted to ask you was: Bank failures are very rare in Canada, are they not?

Mr. POLE. Very rare.

Mr. HOOPER. And they have banks operated through the small towns, through the rural regions of the Dominion, in much the same way as in the United States?

Mr. POLE. Very much so.

Mr. HOOPER. You will find branches of the Bank of Montreal or of the Bank of Nova Scotia in the small villages of 500 or 1,000 in Canada, as you will find branch banks or State banks of similar size in the United States?

Mr. POLE. Yes, sir; in competition with one another.

Mr. HOOPER. The reason why there has been a scarcity of failures or a dearth of failures in the Canadian small towns, has been that the large banks protect the institution if trouble comes to the branch—is not that true?

Mr. POLE. Yes, sir.

Mr. HOOPER. And in Canada, at least, branch banking has worked out very much to the advantage of the financial situation in that country?

Mr. POLE. I am under that impression.

Mr. FENN. I do not think they have ever had any other system

Mr. POLE. No, sir; not within recent years.

Mr. FENN. I suppose there is no other country in the world that has the dual system that we have?

Mr. POLE. No, sir.

Mr. FENN. I think you stated to Mr. Fort a few days ago that the tendency in all the principal countries of the world—England, France, Germany, and other great European countries—is the same tendency as in the United States; namely, the centralization of the banking business in the capital, which is usually the metropolis of the country?

Mr. POLE. That is true, with the possible exception of some little difference with regard to the system which is in force in Germany. They have a number of small independent banks in Germany in addition to the banks operating from the large centers, and the record of failures of these small independent banks in Germany last year was an imposing number.

Mr. HOOPER. They have a large number there?

Mr. POLE. Yes, sir.

Mr. HOOPER. And that was not true of the other—

Mr. POLE. Among the small banks.

Mr. HOOPER. One or two more questions.

In your preliminary statement you mentioned various reasons for the lack of success of the small banks located in small places remote from the larger centers?

Mr. POLE. Yes, sir.

Mr. HOOPER. You spoke of the lack of diversification, for instance. I assume that same lack of diversification would be found in Canadian towns of small size?

Mr. POLE. Yes, sir.

Mr. HOOPER. In the West they would be lending money on wheat or on wheat lands, and in the forest territory, where lumber is produced, that would be the principal item?

Mr. POLE. Yes, sir.

Mr. HOOPER. I suppose in Canada, as well as the United States, there is not the general diversification in the banking loans in the small towns as in the large centers, like Montreal and Toronto?

Mr. POLE. No.

Mr. HOOPER. What, then, would you say is the reason that the Canadian bank system has proved more solid and sound in the way of absence of failures than in the United States?

Mr. POLE. I think their system is responsible for the absence of failures largely by reason of the fact that the metropolitan banks are more scientific in their management and are enabled to diversify and absorb such losses as occur.

Mr. HOOPER. Is the banking system of Canada superior to the two systems in the United States—do you think, generally speaking?

Mr. POLE. The results of the situation, with regard to the rural districts, are far more satisfactory.

Mr. HOOPER. Do you think that the bankers of the higher grade in Canada are, generally speaking, abler men, in their line of business, than in the United States?

Mr. POLE. I should be unable to answer that.

Mr. HOOPER. What I was seeking to find out was the reason why, in a country with 8,000,000 of people, with less opportunity for developing genius along those lines, why the Canadian system, for a long time, has really been more stable, as far as failures are concerned, than our own, as it apparently is?

Mr. POLE. I think an independent unit system, such as ours, is less able to care for a general situation than a branch banking system.

Mr. STRONG. Will you tell us, if you know, to what extent the Government controls these banks in Canada? What is the Government control over banks?

Mr. POLE. There is very little Government control. There is no system of examination in Canada. Reports are filed with the commissioner of banking and are analyzed by him, in addition to which the banks are examined by certified public accountants, which accountants are approved by the banking department.

Mr. STRONG. Mr. Pole, you stated that you thought that, under your plan of branch banking in the United States, we would have many more hundred systems of branches than they do in Canada. Will you explain to me why you arrive at that conclusion?

Mr. POLE. My reason for that, Mr. Chairman, is that under my proposal, a system of branch banking would be developed from the metropolitan centers. Undoubtedly, if opportunities were given banks in such centers of operating branch systems there is no reason why there should not be a very large number of important groups developed from each metropolitan center.

Mr. STRONG. Would not that be true in Canada?

Mr. POLE. They have a nation-wide branch banking system there: My suggestion is that we have a regional branch banking system.

Mr. STRONG. Would that prevent a branch banking system from excluding others?

Mr. POLE. It would prevent them from operating nation-wide. It would not prevent the growth of a big branch system within a restricted area.

Mr. STRONG. Would not there be a likelihood of a monopoly within the big area?

Mr. POLE. I think there would be bank competition throughout this country, and I see no reason why there should be a greater fear of monopoly beyond the metropolitan area than there is within the cities now.

There is plenty of competition in the different cities. To extend the areas would not make for lessened competition. I think it would stimulate it. The opportunities for profit would be greater.

Mr. STRONG. Mr. Luce is here now, and we will ask him to proceed with his cross-examination.

Mr. LUCE. Mr. Pole, it requires some ingenuity to think of some question that has not been asked you already.

Mr. POLE. I think you are right, Mr. Luce. I was afraid the committee had overlooked the fact the committee might want to call other witnesses than myself.

Mr. LUCE. We look to you as the main fount of information. I shall try not to cover ground already covered.

I wish to address myself to the broader principles at stake rather than to details. Let me sketch hastily the background for my questions.

About 30 years ago the country got very much excited over monopoly from the formation of big business institutions of one sort or another. It would seem as if every generation must go through a period of excitement over the question of monopoly and, judging from the speeches in the Senate recently, we are entering another spasm of that sort and it would be of use, I think, to bring out whether the present situation in banking will add any fuel to the flame.

First, let me say that the people got alarmed 30 years ago over the obnoxious features of monopolies, price cutting, rebates, the destruction of small competitors, and other processes that were supposed to be particularly exemplified in the Standard Oil Co. Has it come to your observation that the extension of branch banking so far has produced evils of that sort?

Mr. POLE. A far as I know, Mr. Luce, the branch banking systems which are in operation in this country and abroad have been rather conducive to keener competition than is in existence in a great many parts of our country under the unit system of banking.

Mr. LUCE. You might well elaborate that, if you will, and show us how that develops—through the placing of branches in the same place by two banks, for example.

Mr. POLE. In very many places in Canada and in very many places in England, in comparatively small places, there are as many as two, three, and even four branches of large metropolitan banks, and they carry to those small communities the complete banking service of those important metropolitan institutions, and I have never

heard but what competition among the branch banking systems is anything but extremely keen.

Mr. LUCE. In California, or elsewhere, have there been any instances brought to your attention where a branch of a great bank has tried, by any unfair methods, such as price cutting or what would correspond to it in the banking world—where such tactics have been adopted by a big bank in order to destroy a little bank?

Mr. POLE. I do not know that I can recall any instance of the kind. In California, in every important town, there is, as far as I know, no banking monopoly. The branch banking systems are operating in keen competition with one another in many towns, in addition to the unit banks.

Mr. LUCE. Now, turning to the question suggested by the development in my own neighborhood, it has been observed that the striking tendency in banking in New England is the entrance into the investment field. More and more our national banks are resorting to investments for the use of their funds.

I am not prepared to admit that it is the function of Congress to go beyond securing safety in the matter of banks, but even that factor may enter into what I want to call to your attention. You are, of course, aware of the growth of trust companies in New England. They have larger opportunities for business and greater chance to go into promoting. Of course, you are familiar with the fact that some of our sizable trust companies failed as a result of going into the investment business.

If it is the function of the Government to interfere in such emergencies, is it your expectation that branch banking—that is, the concentration of banking into few groups—would increase or diminish the likelihood of investment banking, assuming for the moment that investment banking has its objections?

Mr. POLE. My belief is that the distribution of securities would be a part of the bank's regular business much more than it is to-day and that their importance as underwriters and distributors might be developed even to the point that the bulk of the investment business in this country might eventually be done by the large banks.

Mr. LUCE. We have hitherto conceived the purpose of commercial banking to be what I might call the brief aid it gives to commerce and industry rather than long-time investment of capital.

Are you quite sure that the present tendency is altogether admirable?

Mr. POLE. The attitude of the people of this country is changing very rapidly with regard to investments. The business of banking is also rapidly changing until to-day banks have become great institutions, operating in every financial direction, and there have been recently instances where banking corporations have underwritten and distributed independently of New York, unusually large underwritings and I think, under proper regulations, there would be no reason to anticipate any very great danger in the extension of such activity.

Mr. LUCE. Now, let me bring your attention to a particular phase of the investment of moneys; that of the savings accounts of large numbers of people and, on an average, a small amount from each.

Anyone who has watched the progress of things in our neighborhood—I speak only from that information—I will not say views with alarm, but views with much interest the entrance of commercial

banking into the handling of the small savings of the people. In Massachusetts we have thought such savings peculiarly deserving of governmental protection. To illustrate, we went so far as to insist that no savings bank and national bank should exist in the same room; they should not exist in the same building unless there was a solid wall without any opening between the two; the reason, of course, being that it was thought unwise to permit the commercial bank to have resort to the small savings of the people.

There have been several disastrous failures, as the result of the opportunity of national banks to invest the savings of the people. Yet, to-day, I find in a national bank—and a very good bank, too; not a great bank, but a successful bank, where I have a small deposit—I find a wicket there for savings accounts, and I see here and there advertisements of Christmas savings clubs, and pretty soon they will have birthday savings clubs and wedding anniversary savings clubs—and it is suggested that we may have to have baby clubs, too; in other words, the national banks are making a drive all over the country to take away the business of the savings banks: to get that money to invest in commerce or in industry or in various business activities, involving the investment of large amounts of capital.

We have very strictly confined the use of the people's savings—and I always use the word "people" with some fear of being suspected of demagogery. However, I know of no other way to characterize the savings of millions of persons who desire, first of all, protection of their money and, secondarily, a fair amount of interest.

By the way, I might say that I am constantly irritated in Washington by observing the announcement of national banks that will pay as much as 3 per cent and sometimes $3\frac{1}{2}$ or even 4 per cent for savings, when, in the savings banks of my own State, I think no bank is paying less than 5 per cent, and I think some are still continuing to pay $5\frac{1}{2}$ per cent. The magnanimity of the Washington banks amuses me [Laughter]

Now, I am very much concerned about this proposal to concentrate, in commercial institutions, without these safeguards in the matter of investments, what has resulted from the thrift of many millions of our people.

In Massachusetts we have also a requirement strictly limiting the class of securities that the savings banks can buy and it is a common thing to use that as an illustration of perfect safety. You will find it in banking literature—the protection thrown around the savings banks by the Massachusetts law. It is a standard that other States, to some extent, try to reach. I fear not enough, as yet.

Is it your judgment that it is a wise thing—and of course I am going somewhat beyond the instant problem before us, assuming we are really making a study of the whole banking system of the country—do you think it is a wise thing, a prudent thing, to put savings of the citizens of the country at the command of commercial institutions, with the many dangers that accompany the lending of money for commercial projects?

Mr. POLE. Congress has given national banks the right to accept savings. The matter has been subject to a great deal of discussion as to whether or not savings deposits should be invested in certain characters of securities. In the case of national banks, I think the law is unfortunate in that it permits banks to enter into a contract

with its savings depositors, giving the bank the right to require 30 or 60 days' notice before withdrawal. Occasionally this has resulted in a preference of the regular depositors—the demand depositors—because the clause has been put into effect. There is, of course, no notice required with respect to demand depositors.

I personally have felt that if this 30 or 60 day clause is going to be maintained the savings investments should be segregated for the savings depositors, and those investments should be regulated. Under such circumstances, I think, there would be no danger.

Mr. LUCE. At present there is nothing in the way of intermingling of all the funds of a national bank, is there?

Mr. POLE. Nothing at all.

Mr. LUCE. I do not get clear in my mind what might be the effect of the extension of branch banking upon this particular feature of the situation. Do you think it would conduce to greater or to less safety for savings deposits, if we had branch banking, than if we had the unit banking?

Mr. POLE. I think it would be conducive to much greater safety in that a large part of the deposits, of rural districts are saving deposits and the result, over the last 10 years, has been very disastrous to savings depositors under our unit system of banking, under branch banking as I have heretofore pointed out there would be few bank failures, and consequently greater safety to the savings depositors.

Mr. LUCE. It would be quite practicable, under branch banking, to require the segregation of the savings deposits?

Mr. POLE. I think it would, if Congress saw fit to do so.

Mr. LUCE. When the McFadden bill, so-called, was passed a few years ago, in view of this particular phase of the question, I was a great deal exercised about the permission given to banks to invest a larger part of their money in real estate loans. My view, however, did not prevail, and banks now have a much larger opportunity to lend with real estate as the security.

Have you any knowledge as to how far that has been used? Of course, in a most general way, has it resulted in a considerable increase in real estate loans by the national banks?

Mr. POLE. Some banks have taken advantage of the liberality in the law to extend their investments in real estate. There is, however, another aspect of the matter and that is that banks acquire, in protection of debts, which have been previously contracted, perhaps as much real estate as they invest in under the McFadden Act directly.

Mr. LUCE. That provision was the result of competition between national banks and State banks or, what we, in our neighborhood, call trust companies. It was pointed out to us that a man who came into a national bank and could not get a loan, backed up by his property, would go across the street to his State bank, so that the national bank lost a customer, which brings me to a still broader aspect of this whole problem.

There is, in economics, the familiar law known as Gresham's law, under which the baser metal drives out the costlier metal. We have in this country, existing side by side, two systems—the national bank system and the State bank system. In many States State banks have much more freedom of action than national banks. It seems to me, in hearing the arguments in this room for 10 years, that, perhaps

quite unconsciously, a great war is going on—an economic war—between the two systems, and that the State banking system is the baser instrument of the two.

Do you have any apprehension that no legislation we might be able to pass will prevent the poorer system from driving out the better system? In answering that, you might also comment upon what will be the effect of the branch banking system on trust companies and State banks of the country. Would it tend to lessen—

Mr. POLE. It would depend very largely upon the provisions of the act. It would undoubtedly take a long time, under present conditions, for the principles of the Gresham law to apply with complete effect. On the other hand, I can not conceive of the national system driving the State banks out of business, unless the provisions of the national banking act were made so attractive as to invite them into the national system.

Mr. LUCE. You would make it a matter of moral suasion rather than compulsion?

Mr. POLE. By all means

Mr. LUCE. Is it not a fact that in this great flood of bank failures that we have had in the last 10 years, the State banking systems have shown themselves greatly inferior to the national banking systems?

Mr. POLE. Over the country as a whole; yes.

Mr. LUCE. And if we were to assume that it is our function to protect, as far as possible, the depositors, particularly those who make savings deposits, is there any place where we can stop short of putting the State banks out of business?

Mr. POLE. Under a branch system, as heretofore suggested, Mr. Luce, I think that the particular attraction would be the element of safety which appeals to the public at large, and if the general impression got out that the branches of a national bank were a safer place to deposit money than in an independent State bank, I believe that the State banks would naturally become less and less important in that community and that the branch of the national bank would become more important—from the standpoint of safety, if for no other reason.

Mr. LUCE. That is all I have to ask.

Mr. STRONG. Mr. Beedy.

Mr. BEEDY. Inasmuch as you have passed me, may I ask now a question suggested by Mr. Luce's questions?

Mr. STRONG. Certainly.

Mr. BEEDY. If it becomes desirable for a closer supervision of banking by the Government, would the concentration of the banking business in branch banking groups tend to increase or diminish the efficiency of such Government supervision?

Mr. POLE. The system of supervision would have to be adapted to the new system, which could be easily done.

Will you ask that question again, please?

Mr. BEEDY. If it becomes desirable for a closer supervision of banking by the Government, would the concentration of the banking business in branch banking groups tend to increase or diminish the efficiency of such Government supervision?

Mr. POLE. My idea would be to make the supervision of the banks more efficient than it is to-day. I think it would be easier to do that under branch banking, in that there would be fewer banks to examine.

Mr. BEEDY. Then, your answer is——

Mr. POLE. And, by adapting a better method of examination than is in force to-day, the advantage would all be in favor of branch banking.

Mr. BEEDY. Your answer is, then, that the concentration of banking business into branch banking groups would make it easier for the Government to make a supervision of the banking business which would result in an added element of safety to the depositors?

Mr. POLE. I think so, by reason of the fact that, under a branch banking system, where large institutions would develop, the question of policy would be given more consideration than under the detailed examinations which are made of unit banks to-day.

It might be, even, that there would have to be a more or less continuous examination going on. The Government would probably have a much closer contact with the executive committees and with the directors of banks, so that it would have first-hand knowledge of any change in banking policy, as applied to any particular institution.

Mr. BEEDY. That is all, Mr. Chairman.

Mr. STRONG. Mr. Goodwin.

Mr. GOODWIN. Do you have any record of any failures in the Canadian banking system, as it has been operated?

Mr. POLE. Yes; there have been failures.

Mr. GOODWIN. Of the parent bank as well as of the branches?

Mr. POLE. Yes.

Mr. GOODWIN. Have these failures been of large proportions?

Mr. POLE. There have been no failures of recent years. My recollection is that the last failure was, about 10 years ago, of the Home Bank of Canada.

Mr. GOODWIN. I think several days ago, in answer to my question at that time, you stated that, in your opinion, supported by the advice of your counsel, branch banking could be permitted under the national law in those States where branch banking, is by the law of those States now prohibited.

Mr. POLE. That was the advice of counsel.

Mr. GOODWIN. Is that advice in writing?

Mr. POLE. Yes, and will be supplied for the record.

Mr. GOODWIN. You also stated that, in your opinion, no national bank should be chartered with a capital of less than \$100,000; that is, it could not operate successfully and profitably with a capital of less than \$100,000. Did I understand you correctly?

Mr. POLE. I said that that had been recommended by several as a remedy for the existing situation; that no bank should be established with a capital of less than \$100,000. It was not my recommendation.

Mr. GOODWIN. If that should be adopted, would that apply to banks already chartered? Would they have to comply with the same law as to capitalization?

Mr. POLE. I do not know what Congress could do in that direction. I assume that that law would not be retroactive, if any such law were passed

Mr. GOODWIN. It would apply only to those banks which may be chartered in the future?

Mr. POLE. It is not my suggestion at all that banks should be limited to \$100,000. I have already expressed opposition to it.

Mr. GOODWIN. That is all, Mr. Chairman.

Mr. STRONG. Mr. Letts.

Mr. LETTS. Mr. Pole, when I questioned you before, it was largely with respect to the Bank of Italy and the Bancitaly Corporation and the Transamerica Corporation. I have before me what purports to be a reprint from a report recently compiled by the research department of the Los Angeles stock exchange. Have you seen that report?

Mr. POLE. I have not, Mr. Letts.

Mr. LETTS. I have no way of knowing whether the information contained in it is authentic. It is stated here that the information and figures are obtained from sources deemed reliable. It shows that the Transamerica Corporation is a holding company, total capital investment, over \$1,150,000,000; that its subsidiaries perform a wide variety of functions, including banking in all its phases; insurance, real estate, the financing of investments, brokerage business, securities, underwriting, and many other things.

I find this statement:

The size of this combination is roughly indexed by the fact that its work is not only nation-wide but world-wide; that its controlled subsidiaries operate 525 banking offices and numerous investment houses.

It contains a table showing the holdings of the Transamerica Corporation, indicating that it holds 99.6 per cent of the stock of the Bank of Italy, which is a banking concern; that it holds 99.93 of the Bancitaly Co. of America, sureties, realty, and so forth, and various other banking houses; the Bancitaly Mortgage Co., total invested capital \$1,983,817; owned 100 per cent by the Transamerica Corporation; that it owns the California Joint Stock Land Bank, capitalized at \$1,399,050—100 per cent; that it owns the Pacific National Fire Insurance Co., capitalized at \$3,000,000, by possessing 100 per cent of its stock; the Bancitaly Agricultural Credit Co., capitalized at \$1,006,620; possessing 100 per cent of that stock; in addition to that it has banking operations and investments operations in Italy.

The information contained would indicate that within eleven months after its organization, the Transamerica Corporation paid a stock dividend of 150 per cent. Would the fact that this stock dividend was paid in September, 1929, have any relation to the contention which was made by Mr. Busby a few days ago, that the Bank of Italy was bankrupt at the time its holdings were taken over by the Transamerica Corporation—would it have any bearing on that inquiry, would you say? I think Mr. Busby showed some figures which indicated a sharp decline in the value of the stock of the Bank of Italy. Have you given any thought to that?

Mr. POLE. I have not seen the circular to which you refer. If you are speaking of any evidence of the Bank of Italy being bankrupt, of course we are very certain there is nothing like that.

Mr. LETTS. I was wondering if there was incident to the taking over of this stock by the Transamerica Corporation—

Mr. POLE. I have no official information as to the stock dividends or any transactions in connection with the Transamerica Corporation.

Mr. BUSBY. Mr. Letts, if you will permit, I will make a short statement and give you what I said the other day.

Mr. LETTS. Yes.

Mr. BUSBY. It was this, that on June 5, 1928, the Bank of Italy stock on the San Francisco Exchange had reached 293. On June 11 a drive was made by certain competitive banking interests on the Bank of Italy standing, and before night on June 11 this stock, which that morning opened at 286, had been driven down to 125. On the 11th of October following that, the Transamerica Corporation was organized for the purpose of taking over all the stock, or as much stock as it could get in hand, of the Bank of Italy, the Bancitaly Corporation, and the other subsidiaries that you have alluded to in the pamphlet you hold in your hand, and their stocks were taken over. Now, the Transamerica Corporation stock was exchanged on the basis of one and three-fourths shares of Transamerica stock for each Bank of Italy share. The Bancitaly Corporation, which was an investment and trust corporation owned by the Bank of Italy, stock was exchanged for Transamerica Corporation stock share for share. At the present time the Transamerica Corporation stock is quoted on the stock exchanges of the country at 45. Now, one and three-fourths times 45 would be 78¾ that the Bank of Italy stock would sell for if it were in existence against 293, where it stood when it started its skidding performance.

My proposition was that that was a virtual failure of the institution with its 299 branches, a failure from the standpoint of its maintaining its financial integrity among the other business institutions of the country.

That is all I desire to say now.

Mr. FORT. The gentleman has overlooked the fact that in between there was a 150 per cent stock dividend, so that he has to take his 78 and multiply it by 2½, for each shareholder now has 2½ shares for each one he then had.

Mr. BUSBY. I intend to go into that later.

Mr. LETTS. That, of course, was the gist of my inquiry.

Mr. BEEDY. That would make the present worth of that stock 192 plus.

Mr. BUSBY. Taking that phase of it, it has dropped at least 100, and other banks in the same locality have not dropped so much.

Mr. BEEDY. How does that compare with the drop in other bank stock in the recent crisis—National City, for instance, and some of the strongest banks in the country?

Mr. BUSBY. National City Bank stock ran up so high that it split into \$20 shares and so mystified the public that they did not know what happened.

Mr. LETTS. I will pass that for the moment.

Mr. POLE. May I say this for the record, that I think it is only fair to say that the fluctuations of the stock of the Bank of Italy or the Transamerica Corporation have been a matter of comment, but the condition of the Bank of Italy has not changed in any way and is just as good now as it was before these fluctuations took place, and, as I said the other day, it is a bank that has grown steadily during all of these stock transactions and ramifications from a very small bank to a bank of more than a billion dollars in resources.

Mr. BUSBY. I would like to add one thing in reply to what Mr. Fort said about the Bank of Italy stock, and that is that the friends that I have who have Bank of Italy stock have not been let in on any such bonanza as Mr. Fort pointed out. They do not know anything about that share dividend, if it happened, and I very seriously doubt that.

Mr. LETTS. This is a stock dividend of the Transamerica Corporation.

Mr. BUSBY. The holders of Bank of Italy stock are still in the lurch which I described.

Mr. LETTS. I am only speaking of the Transamerica Corporation.

Mr. FORT. That was the price the gentleman used, the price of Transamerica Corporation stock translated into Bank of Italy.

Mr. LETTS. I shall pass that for the time being. It is somewhat aside from my general inquiry.

I note this statement with respect to the expansion policy of the Transamerica Corporation:

This great combination is in a position to assure itself profits in many fields. Its banks provide the funds necessary for any desirable deal; its own investment houses underwrite stocks and bonds, which may be marketed and protected by its wide-flung bond houses and securities companies; its banking and investment houses can divert tremendous business to its insurance company; its banking offices may act as agents for the farm loan and real estate mortgage companies; its real estate companies can help to liquidate foreclosed real estate of other departments, its stock trading and brokerage companies have tremendous sources of information and almost unlimited financial support.

Now, I would like to inquire of the comptroller whether or not this information is to his knowledge substantially correct?

Mr. POLE. I have no information with regard to the expansion program of the Transamerica Corporation. It does not come under our supervision, Mr. Letts.

Mr. LETTS. The particular thing that I am interested in, as perhaps was noted from the trend of my questions the other day, is that a very serious consideration exists in connection with this feature, that if we accept branch banking as the less of three evils, perhaps—branch banking, chain banking, and group banking—are we avoiding the pitfalls and the dangers that are incident to group banking after all? Does not this report indicate that the Bank of Italy with its 300 branches is controlled, after all, by a holding company through the medium of its board of directors that sits back of the screen, subject to no supervision or regulation whatever as a banking organization, and is there any way to safeguard the Nation against such control of the banking interests and banking policies of the country through the medium of one or more strong holding companies if we go to the branch banking system as advocated in your formal statement?

Mr. POLE. There should be some control of and some supervisory power over holding corporations, and I suggested in my report to Congress that that be given to the comptroller where the stock of the national banks is held in large part by such corporations.

Mr. LETTS. Well, it seems quite clear that by simply going to branch banking we are not avoiding the dangers that are incident to group control.

Mr. POLE. Of course, the Transamerica Corporation is one which is engaged in the business of both group and branch banking. The par-

ticular activity of the Bank of Italy is a branch banking operation. Now, as to whether Congress would want to legislate prohibiting the entire capital stock, with the possible exception of directors qualifying shares being held by such a corporation, that would be a matter that I should think might have consideration. Under the present laws, of course it can not be prohibited.

Mr. LETTS. Mr. Chairman, I would like at this point to insert in the record the information which I find in this report. It is brief, and the information will be of interest.

Mr. STRONG. If there is no objection, it is so ordered.
(The pamphlet referred to is reproduced below.)

TRANSAMERICA CORPORATION

[A reprint from a report recently compiled by the Research Department of the Los Angeles Stock Exchange. Statements and figures herein while obtained from sources deemed reliable are not guaranteed]

INTRODUCTION

Transamerica Corporation is a holding company organized to coordinate the work of a number of financial institutions. Total capital investment is over \$1,150,000,000. Its subsidiaries perform a wide variety of functions, including banking in all its phases, insurance, real estate sales, and financing, investment and brokerage service, securities underwriting, and many others. The size of this combination is roughly indexed by the fact that its work is not only nationwide, but world-wide; that its controlled subsidiaries operate 525 banking offices and numerous investment houses.

It is difficult to visualize the extent of the Transamerica system, or to estimate the amount of capital invested in it. The table set forth on the following page presents a general outline of the structure, omitting minor subsidiaries.

Holdings of principal banking and auxiliary companies controlled or effectively controlled through Transamerica Corporation

Company	Business	Total invested capital	Shares owned	Per cent
Bank of Italy, N. T. & S. A.	Banking, 294 offices.....	\$196,253,731.00	1,991,941	99.60
Bankitaly Co. of America.....	Securities, realty, etc.....	400,000,000.00	1,299,125	99.93
The Bank of America National Association, N. Y.	Banking, 34 offices in New York.	74,451,204.00	705,501	49.30
Bancamerica-Blair Corporation	Security underwriting, 31 offices.	53,000,000.00	705,501	49.30
Bank of America of California..	Banking, 148 offices in California.	33,068,432.00	778,292	97.29
Corporation of America.....	Holding company for 8 banks.	20,000,000.00	778,292	97.29
Oakland Bank.....	Banking, 12 offices in California.	6,461,752.00	14,390	71.95
Banca d'America e d'Italia.....	Banking (in Italy), 29 offices.....	23,100,000.00	894,112	40.20
Ameritalia (corporation).....	Investment business in Italy.....			
Bankitaly Mortgage Co.....	Dealers in mortgages.....	1,983,817.00	10,000	100.00
California Joint Stock Land Bank.	Farm loans.....	1,399,050.00	9,160	100.00
Pacific National Fire Insurance Co.	Fire insurance.....	3,000,000.00	50,000	100.00
Bankitaly Agricultural Credit Co.	Farm loans.....	1,006,620.00	10,000	100.00

DEVELOPMENT

Transamerica Corporation was organized in October, 1928, to bring under a single ownership the Bank of Italy and Bancitaly Corporation, together with a number of smaller cooperative companies. From the resulting reorganization the present Bank of Italy, N. T. & S. A., and Bankitaly Company of America emerged, as the two principal subsidiaries of Transamerica. Bankitaly Mortgage Co., Bankitaly Agricultural Credit Co., National Bankitaly Co., California Joint Stock Land Bank, Pacific National Fire Insurance Co., and Commercial Holding Co. were the remaining original subsidiaries.

The corporation's first year has witnessed a steady development. The first major incident was the acquisition of control of the Bank of America National Association, in March. A portion of it was exchanged for a stock interest in the underwriting and investment banking firm of Blair & Co. Shortly thereafter the investment arm of the Bank of America National Association was merged with Blair & Co. to form the Bancamerica-Blair Corporation. The Bank of America National Association and the Bancamerica-Blair Corporation are now owned share-for-share by the same stockholders, and form one of the strongest links of the Transamerica chain.

Control of the Bank of America of California was obtained in June, and the Oakland Bank (Oakland, Calif.) and the Pacific National Bank (Los Angeles, Calif.) have also been acquired this year. The nine Pacific National Bank offices have been absorbed by the Bank of Italy, N. T. & S. A., and the Bank of America of California.

The latest developments are new organizations. Bancamerica-Blair has organized Interstate Equities Corporation to act as an investment trust, probably to take a primary interest in Bancamerica-Blair underwritings, and had financed it to a large extent privately. Intercoast Trading Co. has, on the other hand, been financed one-third by Transamerica and two-thirds by Transamerica stockholders under rights. The Intercoast Trading Co. is operated to deal substantially in stocks listed in Los Angeles and San Francisco, and should be a powerful and profitable addition to the Transamerica group.

EARNINGS

Transamerica in 1928 reported earnings of \$97,373,000 on the companies in the original Transamerica group, equal to \$11.12 per share on Transamerica's 8,747,594 shares then outstanding.

For the first half of 1929 Transamerica reported earnings on the companies in the group of \$49,185,173, equal to \$5.47 per share on the average number (8,988,631) of shares outstanding during the half-year. However, these earnings do not include undistributed earnings of Bank of America National Association, Bancamerica-Blair Corporation, Bank of America of California, Oakland Bank, and certain other companies in the group in which Transamerica's holdings are less than 99 per cent. It would appear that the \$49,185,173 of earnings come mainly from the original Transamerica companies.

The 150 per cent stock dividend which was recently paid has, of course, increased the number of shares outstanding, and reduced the earnings per share. In terms of the new stock the half-year's earnings per share become \$2.14 on 22,996,725 shares now outstanding. The number of new shares to be outstanding shortly will be 23,226,692.

DIVIDENDS

Transamerica has paid a quarterly dividend of \$1 per share in cash since its organization, and in April and July of this year also paid 1 per cent in stock. These payments were made on the old stock, prior to the 150 per cent stock dividend. The number of outstanding shares was multiplied by two and one-half when the 150 per cent stock dividend was paid to stockholders of record September 10, 1929. Dividends on the new stock will be at the annual rate of \$1.60 in cash and 4 per cent in stock dividends. This is the exact equivalent of the dividend paid on the old stock.

YIELD

Based on the dividends of \$1.60 per annum and 4 per cent per annum in stock, Transamerica (new) yields the following as of the prices listed below:

Price:	Per cent
\$50-----	7. 20
\$55-----	6. 90
\$60-----	6. 67
\$65-----	6. 46

EXPANSION POLICY

Transamerica has made a policy of expansion through the exchange of Transamerica stock for those of the desired companies, and the ability of its management is manifest in the steady progress and development of such subsidiaries.

This great combination is in a position to assure itself profits in many fields. Its banks provide the funds necessary for any desirable deal; its own investment houses underwrite stocks and bonds, which may be marketed and protected by its wide-flung bond houses and securities companies; its banking and investment houses can divert tremendous business to its insurance company; its banking offices may act as agents for the farm loan and real estate mortgage companies; its real estate companies can help to liquidate foreclosed real estate of other departments; its stock trading and brokerage companies have tremendous sources of information and almost unlimited financial support.

Transamerica is now strongly entrenched in California and New York, has important European branches, and through Bancamerica-Blair, National Bankitaly Co., and America Investment Co. has an underwriting and investment business which is nation-wide. Expansion in New York and California is still going forward. Furthermore, there is talk of liberalizing the banking laws to permit national banks in every State to have branches, and such legislation would possibly result in Transamerica's embarking on a vigorous program of bank expansion. Certainly there is no reason to believe that Transamerica's expansion program is complete, and the banking field is one which offers the greatest opportunity to its diversified facilities.

While it is generally assumed that Transamerica Corporation is now acting as a holding company exclusively, controlling only its known subsidiaries, many well-informed people believe that the Transamerica subsidiaries are acquiring the stock of prospective additions to the Transamerica chain.

ASSET VALUES

Transamerica's balance sheet of December 31, 1928, gave total cash and investments of \$1,093,449,250, equal to approximately \$125 per share on 8,747,594 shares outstanding. This would indicate a book value of \$50 per share on the new stock.

MANAGEMENT

While the Transamerica Corporation is generally conceded to be controlled by the group of financiers associated with A. P. Giannini in the original development of Bank of Italy and Bankitaly Corporation, the board of directors includes prominent bankers and business men from practically all of the merged organizations. The former moving spirits of the Bank of America, N. A., Blair & Co., and other merged companies have been taken into the Transamerica directorate, which now numbers 22 people. Experience in every phase of the widespread field covered by Transamerica is thus to be found on the board of directors.

Transamerica's 22,996,725 shares are owned by more than 135,000 stockholders, making an average holding of approximately 170 shares. While there are, no doubt, many large holdings of Transamerica, there are also many thousands who have bought a few shares as a permanent investment. Transamerica officials have announced that they hope to increase the number of stockholders to 500,000, and a special effort is being made to sell the new shares recently authorized in small amounts, preferably to individuals living outside of California. These policies are intended to develop a large sympathetic and geographically-scattered group of stockholders, who will provide the nucleus for a growing clientele, and will help to mold a friendly public attitude toward the corporation.

DIRECTORS OF TRANSAMERICA CORPORATION

- A. P. Giannini, president Transamerica Corporation, San Francisco, Calif.
- A. J. Mount, president Bank of Italy, N. T. & S. A., San Francisco, Calif.
- James A. Bacigalupi, director Bank of Italy, N. T. & S. A., San Francisco, Calif.
- P. C. Hale, vice president Bankitaly Co. of America, San Francisco, Calif.
- A. Pedrini, vice president Bankitaly Co. of America, San Francisco, Calif.
- L. M. Giannini, president Pacific National Fire Insurance Co., San Francisco, Calif.
- A. E. Sbarboro, vice president Pacific National Fire Insurance Co., San Francisco, Calif.
- W. E. Blauer, vice president Bankitaly Mortgage Co. and vice president California Joint Stock Land Bank, San Francisco, Calif.
- Dr. A. H. Giannini, chairman board of directors, The Bank of America, N. A., New York City.

Edward C. Delafield, president The Bank of America, N. A., New York City.
J. E. Rovensky, vice president Bancamerica-Blair Corporation, New York City.

Leon Bocqueraz, chairman board of directors, Bank of America of California, San Francisco, Calif.

E. J. Nolan, president Bank of America of California, Los Angeles, Calif.

C. N. Hawkins, vice president Bankitaly Agricultural Credit Corporation, Hollister, Calif.

W. H. Snyder, vice president Commercial Holding Co., New York City.

George A. Webster, vice president Commercial Holding Co., San Francisco, Calif.

W. F. Morrish, vice president Corporation of America, San Francisco, Calif.

C. R. Bell, vice president Corporation of America, San Francisco, Calif.

Elisha Walker, president Bancamerica-Blair Corporation, New York City.

Harry Bronner, vice president Bancamerica-Blair Corporation, New York City.

Hunter S. Marston, vice president Bancamerica-Blair Corporation, New York City.

W. W. Garthwaite, president The Oakland Bank, Oakland, Calif.

Mr. LETTS. There is just one other question, Mr. Comptroller. Have you given any consideration to the tax question? Many of our States are finding it necessary to reexamine their tax plans, and one question that exists in the minds of many of the legislators is whether or not the national banks are bearing their proper part of the tax burden of the States.

Have you given any consideration to that problem?

Mr. POLE. Yes. The comptroller's office is on record as being in favor of the existing section 5219. No recommendation was made by me, so that the former recommendation that we do not advocate any change in that stands. However, the matter is being given consideration by the American Bankers' Association and is being investigated very thoroughly, which may possibly enable us to offer some suggestions at a later date.

Mr. LETTS. Under a branch system, the parent bank would place in each state only such assets and banking facilities as were deemed to be necessary to meet the conditions and to render the appropriate service—is that not correct?

Mr. POLE. Yes.

Mr. LETTS. In relation to chain merchandising, we find that it is never possible to find enough in stock and wares on the shelves in January, when the assessor makes his visit, to furnish any kind of a proper tax basis. An individual merchant, a unit merchant, may have, we will say, \$150,000 worth of stock on his shelves, and he is assessed accordingly. A chain hardware store across the street from him will have about \$3,000 worth of stock on its shelves, and a requisition sheet lying on the manager's desk, and when he sells a hoe or a hatchet, he writes "hoe" or "hatchet" on his requisition sheet, and sends that to Chicago or to some other center, and the stock is in that way replenished, to the point that in many instances there chain merchandising corporations are obviating the difficulties and the expense incident to storage by getting away from storage, by keeping their merchandise in transit and using their railroad cars for their storage purposes.

Will we have any corresponding difficulties in that regard if we go to branch banking?

Mr. POLE. I do not know what amendments there might be in the law with respect to such a contingency, Mr. Letts, but this I do know, that whatever new methods of taxation must be adopted to cover such

a situation, the branch bank would be far better able to meet that expense than would the unit bank.

Mr. LETTS. I think that is all.

Mr. STRONG. Mr. Fort.

Mr. WINGO. Judge Letts, his answer assumes that Congress by legislation might affect that matter. There might be another question that would arise that nothing but a Federal Court could determine, that it was beyond the power of Congress to grant that power. Congress can not grant taxing power to the States at all. We might say to the States that they can tax these banks as they please, that we will make no restrictions, and yet the difficulty to which Judge Letts points would be one that would still have to be met.

As an illustration, suppose that you had your parent bank in Memphis, Tenn. It is a foreign corporation so far as Arkansas is concerned, and all the efforts of the Arkansas Legislature to enforce its taxation might meet with the same situation that arose in the case that was settled in the Supreme Court, in the Western Union case, under what they called the Wingo Corporation Act that I was the author of in the State senate.

So it is not so easy as you suggest, that Congress should simply handle it.

Mr. POLE. It was not my idea that that would be necessarily an amendment by Congress, but it might be by a change in the State laws with regard to taxation, and I feel that section 5219 that, as far as we are concerned, banking capital shall not be assessed at a greater rate than other similarly invested capital, is for the time being satisfactory.

Mr. WINGO. I thought, however, that he was calling attention to the difficulties that might arise.

Mr. LETTS. My particular point is this, if I may make it plainer, and if you will pardon me, Mr. Wingo, that there will be no invested capital represented by the branch. The invested capital will be in the parent institution.

Mr. POLE. Well, I would not be able to answer offhand on an intricate question of taxation as to what modifications the State might find necessary to make in such a contingency.

Mr. LETTS. Well, of course, if there is no invested capital, that can not be made the basis of taxation, and yet the States should have some part of its tax burden borne by an institution which renders that service and has that privilege within the community.

Mr. POLE. The States do not ordinarily overlook the opportunities for adjusting their taxing systems—

Mr. LETTS. It is a very difficult question.

Mr. POLE. Extremely.

Mr. LETTS. In my State we have a tax commission that is making a study of that matter and that has been looking into the matter for a long time, and I think that in a great many States they are finding that it is quite necessary that they reexamine their tax methods, they must get on some kind of a new basis, because there have been so many new and novel situations arise in business and the manner of handling property.

Mr. WINGO. Mr. Chairman, if I may right there, I still think that the comptroller does not catch the point I am seeking to impress upon him, that it is not an easy matter, either for Congress or the

States, to handle this question. We will take the illustration that I used awhile ago. The parent bank is in Memphis, and it says that Arkansas is in its trade territory. It will have, say, several small branches like they have in these small villages on these plantations across the river in Arkansas where they will have an office open two or three days a week, and the Legislature of Arkansas, under the decisions of the courts, can not arbitrarily say that they will assess them on the basis of their capital, because the courts say that they can not do that, that they have tried that once. The corporation will take the position that it has a desk and so much furniture in Arkansas, but the physical deposits are not there, that they are in Memphis. Three days in the week there are some papers brought there by the manager in his bag, and that is all that is there outside of the furniture. It will take a more ingenious law or plan than anyone in this room has worked out whereby that State can tax other than the actual physical furniture in that branch.

That is the difficulty you are thinking of, Judge Letts, is it not?

Mr. LETTS. Precisely.

Mr. LUCE. May I interpose a statement there? For about thirty years I have made my bread and butter out of a corporation that does business both in Massachusetts and New York, and during that time every year we have had to apportion the amount of capital used in each of those two States, and it has not proved to be an insurmountable proposition.

Mr. WINGO. For the corporation?

Mr. LUCE. For the corporation.

Mr. WINGO. I am familiar with that apportionment business, and it is not satisfactory to the States. The corporation always to the State, "Challenge our apportionment if you want to, and into the courts we go," and they cite certain decisions of the courts to support them.

Mr. LETTS. Would it be as easy and as simple as you indicate, Mr. Luce, if you had a parent organization in New York City, with branches throughout the entire Nation?

Mr. LUCE. It makes no difference what the comparative size of the corporation is. The proposition is not to tax the material assets of the corporation, but we are asked to furnish figures from which a computation may be made as to the relative proportionate use of that capital in the two States.

Mr. LETTS. That was just a harmonious plan that was used to take care of your situation, was it not?

Mr. LUCE. I am not sure about that.

Mr. LETTS. It was a harmonious plan of taxing companies in one State and the other?

Mr. LUCE. Oh, no; my State holds that it has the right to tax the capital used.

Mr. LETTS. I understand that, but how did you make this apportionment?

Mr. LUCE. We do not make it. We furnish the figures and let them make it. We give them the figures of our business.

Mr. LETTS. But who had authority to make that apportionment?

Mr. LUCE. The tax commissions of the two States.

Mr. LETTS. Well, it was by mutual and satisfactory agreement that they were able to arrive at it, and there is nothing in the law of either State that controlled the matter, as I understand it.

Mr. LUCE. The law of Massachusetts has a yardstick by which it measures the amount of capital used in Massachusetts.

Mr. LETTS. But that would not be binding in my State.

Mr. LUCE. But, as a matter of fact, the thing works out without any difficulty.

Mr. LETTS. By the harmonious action of the officials that are charged with the duty of levying the tax.

Mr. LUCE. Of course, it is possible that one State might claim that a much larger proportion of the capital is used in its borders than the other State would be able to admit.

Mr. LETTS. And would not the difficulties be multiplied in putting branches in 48 States?

Mr. LUCE. Well, I can only answer that as far as I know the thing does not happen.

Mr. LETTS. You do not have difficulties?

Mr. LUCE. Not in my State of any appreciable consequence.

Mr. LETTS. A good many of the States now feel that there must be some kind of a readjustment along those lines.

Mr. BEEDY. It think, for the purpose of the record, that it ought to appear that there is no proposal before the committee at the present time that would authorize the establishment of branches in 48 States. At best, the only proposal that has been suggested is the limitation of branches within the areas of 12 commercial districts, so that your question would simply go to the extent of the size of the branch-banking system.

Mr. LETTS. I take it that Congress might decide now to permit branches within certain trade areas, and another Congress might take another step at a later time, and it is quite conceivable that it might become nation-wide.

Mr. BEEDY. Oh, yes.

Mr. WINGO. I do not want the comptroller put in the attitude of saying on the record that the question of taxation would be an easy one, which it is not. I suppose he recognizes that the taxation problem is a very difficult one, and, with the shifting conditions, it becomes a constant problem that has to be met. I assume that they are handling it in some way in connection with the Bank of Italy, and that as they extend branch banking they will work out a way, and the courts can be determined upon to protect the interests of both the States and the banks; but I do not want it to appear to the attorneys and directors of banks who may read this record that the comptroller who is making this recommendation to us that we have to pass on treats the taxation problem as a light one.

Mr. POLE. I intended to convey to you, Mr. Wingo, that I realized that the taxation problem was a most intricate one, and I reiterate that.

Mr. STRONG. Now, Mr. Fort.

Mr. FORT. Mr. Pole, on this tax problem, we now have a statute, as you pointed out awhile ago, by which the Federal Government restricts and limits the powers of the State to tax national banks so that the capital invested in national banks shall be treated the same as other capital in the State similarly employed.

Mr. POLE. That is correct.

Mr. FORT. I assume that that act has been sustained in the courts?

Mr. POLE. I am sure it has.

Mr. FORT. If we have, then, the power to put on that type of limitation, we would also have the power, if we saw fit, would we not, to draw a statute providing—and I am just suggesting this, not having thought through this particular matter—that each national bank which had branches shall pay in each city or in each town where it had branches a tax proportionate to the volume that the deposits from that branch bear to its entire resources, or something of that sort?

Mr. POLE. That would seem to be entirely reasonable.

Mr. FORT. In other words, we have the power, if we choose to use it, to establish a rule of taxation for national banks which will compel them to pay taxes?

Mr. POLE. I feel sure that the States tax the national banks by permission of Congress. That is my understanding.

Mr. FORT. And we could compel it as well as permit it? That is, we could compel the bank to pay?

Mr. POLE. That would be my idea.

Mr. FORT. We have had a lot of discussion here about the Bank of Italy. I do not hold any brief for their system of banking or of holding companies, but, as a matter of fair consideration of this whole question, substantially the same thing that is happening in the Bank of Italy group is happening in other banking groups in this country, is it not?

Mr. POLE. The same methods of transacting business and the same developments along the line of branches is going on with respect to other banks.

Mr. FORT. And the same development in the line of affiliated organizations of one type or another?

Mr. POLE. In a greater or less degree.

Mr. FORT. For example, the Chase National Bank in New York today has the American Express Co. as a part of itself, has it not?

Mr. POLE. I believe that is true through the Chase Securities Co.

Mr. FORT. As a result, today, in effect, the Chase National Bank is operating branch banking of a type throughout all of the cities of any importance in the United States and Europe, is it not?

Mr. POLE. It is operating a branch system directly in the city of New York and, through its Securities Co., I think over the country in the manner suggested by you.

Mr. FORT. All of the business of the American Express Co. is banking business of a type, is it not? I do not mean that they are necessarily depository banks, but they do a banking business, do they not, in exchange, in the issuance of letters of credit, and in the issuance of traveler's checks?

Mr. POLE. That is my understanding.

Mr. FORT. So that we already have at least one affiliated organization in the United States which is engaged in certain forms of branch banking, not only nation wide, but world wide?

Mr. POLE. Yes.

Mr. FORT. And somewhat the same thing is true—and, of course, it is a part of the Bankitaly group—of the Bancamerica since its

affiliation with the Blair Corporation, is it not? They are issuing letters of credit and doing a banking business throughout the world and in the larger cities of the United States?

Mr. POLE. That is true.

Mr. FORT. And the same thing is true with the National City and Guaranty Cos., or their affiliates, and the Chicago Continental & Commercial Bank?

Mr. POLE. In many respects.

Mr. FORT. So that we already are faced, as a practical existing question and not a mere future possibility, with the expansion of some form of branch banking activities, both nation wide and world wide, by some of our large banks?

Mr. POLE. Other than by the Transamerica Corporation?

Mr. FORT. Yes, other than by the Transamerica Corporation

Mr. POLE. Yes.

Mr. FORT. And in some cases those functions are really carried on by the bank as a bank, are they not? For instance, the Bankers Trust Co., of New York, as I understand, has no security affiliate, but has securities offices and letters of credit offices, and so forth, throughout this country and Europe—is not that so?

Mr. POLE. I think you are correct. Of course, the Bankers Trust Co is not a national bank and I have no official information with regard to its operations.

Mr. FORT. Now, in that connection, you have spoken, under the questioning of Mr. Luce—

Mr. BUSBY. Will the gentleman yield at this point, before he leaves that matter? I want to call attention to the fact that I was not pointing out these things that you have asked about—

Mr. FORT. I was referring to Judge Luce's questions.

Mr. BUSBY. But to the fact that the Transamerica Corporation had been formed to take care of all the interests of the Bank of Italy, which has not happened in any other system.

Mr. FORT. It has happened in the Chase National Bank taking over the American Express Co

Mr. BUSBY. No; not by a holding corporation formed indecidentally of all these units, to take over all the units under a new name.

Mr. FORT. Mr. Pole, in regard to the question of the shift which Mr. Luce, I think, very aptly described as from the finer to the baser system of banking, the shift from the national to the State system, what has been the shift in terms of resources between the two systems since the passage of the McFadden bill?

Mr. POLE. There have been four and a half billion dollars of resources that have been converted from the national to the State system within the past 10 years.

Mr. FORT. Is that a net figure, or have there been corresponding shifts of State to the national that would reduce that?

Mr. POLE. No, that is the total resources of all national banks of five millions of resources and over which have left the national system within the past 10 years, as set out in my report to Congress.

Since the passage of the McFadden Act (Feb. 25, 1927) to March 14, 1930, the total resources of the 377 national banks which have gone into the State systems is approximately \$3,400,000,000, while

the total resources of the 181 State banks which have come into the national system during the same period is about \$2,700,000,000.

Mr. FORT. Have you the figures in number of banks?

Mr. POLE. I shall be glad to supply that.

Mr. FORT. I should like to see it.

Mr. WINGO. Right in that same place, will you insert the resources of State banks and the resources of national banks on the date the McFadden Act passed, and the same figures of resources of State banks and resources of national banks on the last available date, or at the present time?

Mr. POLE. I will be glad to.

Mr. WINGO. Pardon the interruption, but I wanted to get the whole picture there.

(The information called for is reproduced below.)

This office had no call showing the resources of national banks as of February 25, 1927, but did through process of calculation estimate the total amount of resources of national banks on that date as being \$25,136,426,000. No figures were available, however, for State and private banks. The nearest available figures on call reports for State and private banks and national banks was June 30, 1927, four months subsequent to the passage of the McFadden bill, on which date the total resources of 7,796 national banks was \$26,581,943,000. Total resources for 19,265 State and private banks was \$41,550,615,000. The total resources for 7,536 reporting national banks as of June 29, 1929, was \$27,440,228,000, and the total resources for 17,794 State and private banks as of June 29, 1929, was \$44,732,277,000. No later figures are available for State and private banks but the total resources of 7,408 national banks as of December 31, 1929, was \$28,882,483,000.

Mr. FORT. Now, we have also had some discussion as to the political power resulting from these various systems. Is it not a fact also, Mr. Pole, that these changes in the banking systems, of branch banking and group banking and other affiliations of banking power, are resulting in an enormous concentration of economic power, apart from political power?

Mr. POLE. It would seem that that would be natural.

Mr. FORT. And that that is running along correlatively and simultaneously with an aggregation of economic power in our industry and in our merchandising?

Mr. POLE. Undoubtedly.

Mr. FORT. The tendency everywhere seems to be toward the establishment of greater units under single control?

Mr. POLE. Yes.

Mr. FORT. It has seemed to me, parenthetically, that we are somewhat getting to the point where we have got to consider the aggregation of economic power, through control of personal property, as England was forced three or four hundred years ago to consider it when all property was real property. If this aggregation of economic power through consolidation of banking resources is moving as fast as it is, do you still feel, as you said awhile ago, that allowing these great banks of deposit to go into the investment field and the origination of securities is wise, or should they be restricted and held out of the investment and origination of securities altogether and forced back into what used to be called banking?

Mr. POLE. A very important factor in the banking business is dealing in securities, and it is becoming more and more important as

the commercial business of the bank appears to be coming less and less profitable.

Mr. FORT. Let us get a clear view of what we mean by dealing in securities, Mr. Pole. Dealing with securities and dealing in securities are two different things, of course?

Mr. POLE. Yes.

Mr. FORT. Can you see no possible basis for a differentiation between the function of loaning on securities held by somebody else and the function of originating securities and selling them to somebody else?

Mr. POLE. A very wide difference.

Mr. FORT. Granting that there is a difference there, are they, in your judgment, as a supervising bank official, the type of functions that should be in the same hands?

Mr. POLE. I know of no dangerous developments to date, Mr. Fort.

Mr. FORT. No; but that does not go to the theory

Mr. POLE. No.

Mr. FORT. Banking, as it has been regarded traditionally, is the receipt of deposits and the loaning of money, is it not?

Mr. POLE. Yes.

Mr. FORT. Now, the loaning of money to-day, by virtue of the transformation in our business and economic structure, has become increasingly a loaning on securities rather than a loaning on names or on individually-owned business. Do you feel that it is sound banking—and I am not precommitted one way or the other—or sound banking theory that the same man should sell me a security and then determine how much he should lend me to buy it?

Mr. POLE. I can not see any objection to banks going into the underwriting and the distribution of securities on a large scale.

Mr. FORT. In the one case the psychology of the banker is that of a lender whose sole consideration is the safety of the loan and the making of a loan that is wise for the borrower to have; do you see no difference between that psychological viewpoint and the viewpoint of the salesman who is making money or profit out of selling the security on which the loan is sought?

Mr. POLE. Yes, I see a very great difference.

Mr. FORT. In that psychology?

Mr. POLE. A very great difference in that psychology.

Mr. FORT. Now, the trust powers of banks have been exercised to a very great extent, have they not?

Mr. POLE. To an increasing extent.

Mr. FORT. And are continuing. The percentage of increase is really tremendous, is it not?

Mr. POLE. Remarkably large.

Mr. FORT. That results in the control of very large resources going into the hands of the management of banks, that management having no financial interest whatever in the funds in its control, does it not?

Mr. POLE. It certainly does.

Mr. FORT. In other words, it is another step by which we are passing from the owner controlling his property to somebody else controlling it for him?

Mr. POLE. I think you are correct.

Mr. FORT. Now, if an individual is trustee under a will or a voluntary trust, he may make no profit whatever, directly or indirectly,

out of the funds in his hands as trustee, other than his legal commission, may he?

Mr. POLE. That is correct.

Mr. FORT. And if he does, he is liable to removal, and also to deprivation of his profit, and, simultaneously, to make up any loss which may have occurred on one transaction, while being denied a profit on the other transaction. Is there any sound reason why the same rule should not apply to corporate trustees?

Mr. POLE. I think not.

Mr. FORT. Then should banks which are corporate trustees be permitted to deposit the funds of the trust with themselves, except that they pay as interest the same earnings that they make?

Mr. POLE. I should say that under regulation there would be no objection to it.

Mr. FORT. Why not? If it were a private individual, he would not be allowed to do it, would he?

Mr. POLE. I think that the trust department might properly deposit its uninvested trust funds in the commercial department of a bank, which it does to-day, such deposit being covered by securities under governmental regulation.

Mr. FORT. And then, when deposited in the commercial department, they become subject to the ordinary hazards and investments of the bank, do they not?

Mr. POLE. They are protected by a deposit of securities with the trust department, covering the full amount of deposit.

Mr. FORT. The individual trustee under a will is covered by a surety bond, is he not?

Mr. POLE. Yes.

Mr. FORT. So that there is no difference between the one case and the other?

Mr. POLE. As far as the security is concerned; no.

Mr. FORT. But the individual trustee would not be permitted, even though under bond, to utilize the funds in his custody as trustee in his own business and make a profit?

Mr. POLE. That is correct.

Mr. FORT. Nor would he be permitted to buy securities from himself or from a corporation which he owned?

Mr. POLE. That is true.

Mr. FORT. Now, all that I am asking is this, that as a matter of sound theory, is there any reason why a corporate trustee should have broader powers in this respect than individual trustees?

Mr. POLE. I probably see no reason why there should be any difference there.

Mr. FORT. Is it not possible, under the present situation of security affiliates, as was brought out by somebody else the other day, for the little actual stock ownership of a bank to be in its own security affiliate?

Mr. POLE. There is no law prohibiting that at present. I have suggested that where the stock is held by these securities companies, or where there is a securities company that is closely affiliated with the bank, that the supervisory authority should be extended to such corporations.

Mr. FORT. The fact is that the stock of security affiliates and the stock of the banks themselves are traded in as a unit, is it not?

Mr. POLE. That is quite often the case.

Mr. FORT. Is there anything in the national bank act that permits that?

Mr. POLE. There is nothing prohibiting it.

Mr. FORT. The tying of the two stocks together so that neither could be sold separately from the other.

Is there anything in the national bank act that permits voting trusts on national bank stock?

Mr. POLE. There is no mention of voting trusts as far as I know.

Mr. FORT. Are there any court decisions on that subject in regard to national banks?

Mr. POLE. I am sure there are.

Mr. FORT. Which way? Do you know? Are they legal or illegal?

Mr. POLE. I have not the information on that.

Mr. FORT. If Mr. Awalt knows the decisions, I wish he would put them in the record.

Mr. AWALT. I can not offhand tell you the exact decisions, but there was a decision in New York State on a voting trust, holding it illegal, and there was a decision in one of the southern States holding a voting trust illegal.

Mr. WINGO. That was not with reference to national banks, was it?

Mr. AWALT. I do not believe either one had reference to national banks.

Mr. WINGO. I do not think they were. I remember that I had occasion to ask about that.

Mr. AWALT. I might say that we have consistently opposed voting trusts in our office.

Mr. FORT. That is what I was coming to. I think generally that there is a feeling that a voting trust of bank stock at least is against the public interest.

Mr. POLE. There is.

Mr. FORT. Is there any logical difference between a voting trust on the bank stock and the ownership of the majority of the stock of that bank by a corporation?

Mr. POLE. As a matter of practice, there would be great similarity in the operation of the two ideas.

Mr. FORT. In the one case the man would have his voting trust certificates for his holding, and in the other he would have a certificate of stock in the Transamerica Corporation, or whatever it might be that owned the stock of the bank, but in either case the control is locked, is it not?

Mr. POLE. Yes.

Mr. FORT. Do you feel that the locking of control of banks through any form of device is a desirable thing?

Mr. POLE. I think it is undesirable.

Mr. FORT. In the examinations of banks having trust departments, are the securities held by the banks for their own account cross-checked by number and in other ways against the securities held by the bank for trust accounts?

Mr. POLE. Those are kept entirely separate.

Mr. FORT. You seal the one box so that they can not be transferred back from box to box until you make your examination?

Mr. POLE. We do. We take care of that situation.

Mr. FORT. Has the question come to you in any way that will give you grounds for an opinion as to whether we should, now that banking has become so largely a matter of loans on collateral, in addition to our 10 per cent limit, or some other limit, of resources that may be loaned to any borrower, make a lending limit as to the amount that can be loaned on the securities of any corporation?

Mr. POLE. I have not given that any consideration.

Mr. FORT. Now that collateral loans have replaced personal loans to such a large extent, do you not think it is something that we should think of?

Mr. POLE. I think it might be given consideration.

Mr. FORT. Is it not essential if you are going to get real diversification of investment?

Mr. POLE. I do not know that I would say that it would be essential. I think it might be desirable.

Mr. FORT. In regard to branch banking again, has the branch banking system in California, in your judgment and from your vision of it, produced really strong banks in the small towns? That is, have the branch banking systems penetrated into the very small towns as well, or have they only gone into the larger towns?

Mr. POLE. They are in very many small towns as well as the larger ones.

Mr. FORT. You have said that branch banking will intensify competition. Has not its tendency so far been, as applied to city-wide banking, to reduce the competition in the sense of the number of competitors, while at the same time it has furnished stronger independent banks, larger individual banks?

Mr. POLE. I think that might be true as to the cities.

Mr. FORT. Would not the same thing be true in the country?

Mr. POLE. The small unit banks in the cities have very frequently been replaced by branches, and there are branches on almost every block of one bank or another, thus increasing competition with, it is true, a less number of competing systems. I think that the large cities would reach out into the rural sections and the competition would be just as keen there.

Mr. FORT. You have spoken of the fact that the branch banks would be stronger by virtue of a greater diversification of loans, which I think is a very sound observation.

Mr. POLE. Yes.

Mr. FORT. That has not necessarily been true, however, of our great city systems has it?

Mr. POLE. I should say so, in their diversification of loans with respect more, of course, to industries than to rural credits. There are greater opportunities for diversification in the cities by reason of the great diversification of industries there.

Mr. FORT. I think the panic of 1920 is far enough back so that we can perhaps talk about it a little. Is it not true that in 1920 and 1921, some of the very largest banks in America were in pretty tight straits?

Mr. POLE. I have heard that some of them were.

Mr. FORT. But were not permitted to fail because of the danger to the whole banking structure of the Nation if they did fail?

Mr. POLE. I think that is correct, Mr. Fort.

Mr. FORT. Is not the explanation in part of the absence of failures in the Canadian system the fact that they have not been allowed to fail? Was not that the case just two or three years ago, where one bank was on the verge of failure and was taken over by two or three of the other major systems of Canada?

Mr. POLE. I think that may account in some measure for the few failures which do occur in the metropolitan centers. That is also true in this country.

Mr. FORT. In Canada, too. It is true in a group system. In other words, if a bank gets so big that its failure would be a shock to the whole banking structure, somebody is going to step in and take it over and not let it fail, whereas that does not happen with these little country banks.

Mr. POLE. That is undoubtedly true.

Mr. FORT. So that in part the safeguard to the small country town is not altogether from the diversification?

Mr. POLE. Not altogether.

Mr. FORT. Or from the greater capital, in the sense that it enables it to stand the shock, but from the fact that the size will make it inadvisable for other banks to let it fail.

Mr. POLE. That is an important factor.

Mr. FORT. Now, we have developed in these questions of you, Mr. Pole, a very great deal of interesting thought from which it might appear to some of us at least that perhaps our loss of banks from the national system to the baser system, as Mr. Luce very well called it, could be in either of two ways. One is by extending the powers of national banks and the other by endeavoring to force improvement in banking methods among State banks. One would be as effective as the other, would it not?

Mr. POLE. I do not know how we could force improvement in the management of State banks.

Mr. FORT. Not in the management, but in the code.

Mr. POLE. The code?

Mr. FORT. The code under which they operate. You said, in answer to a question the other day, that we had the power, if we chose to exercise it through the Federal reserve system, to lay down rules which every State bank would have to live up to.

Mr. POLE. As a condition of membership.

Mr. FORT. As a condition of membership, or, I assume, as a condition of having their checks cleared.

Mr. POLE. I think that Congress might pass legislation to that effect.

Mr. FORT. So that we have the power if it is wise to use it?

Mr. POLE. As far as I know, Mr. Fort.

Mr. FORT. But, in any event, so far as moderate regulation of the State banks goes, we have unquestionably the power through the Federal reserve system?

Mr. POLE. I should say so.

Mr. FORT. So that we can approach the question of the strengthening of the national system from either angle we choose, either by making the membership in the Federal reserve system mean a better bank or by extending to the national banks more of the privileges that the State banks now enjoy, or other privileges that the State banks can not enjoy, as in your suggestion?

Mr. POLE. I think that might be said to be correct.

Mr. FORT. Somewhere in between there probably is a balance that represents what we ought to do?

Mr. POLE. Yes.

Mr. FORT. The shift from the national to the State system really will not be stopped if we permit either chain or group banking while the States still give greater advantages to the State banks?

Mr. POLE. I do not think I understand the question.

Mr. FORT. I will ask my question differently. All of us are vitally concerned with this shift of resources out of the national system into the State system.

Mr. POLE. Yes.

Mr. FORT. If the State laws continue to permit greater flexibility in banking practice to banks incorporated under State charter than we do under the national charter, and we continue to permit group and chain banking, will not the tendency be for the groups and chains to transform their national banks that they own into State banks?

Mr. POLE. I think that tendency would be so if they did not attach too much value to their membership in the Federal Reserve System. I think, however, if privileges were given to national banks which would permit them to cross State lines with branches it would attract a great many State banks into the national system.

Mr. FORT. That I see.

Mr. POLE. If they were permitted to cross State lines, which is the important factor there

Mr. FORT. But we have not found, practically, that the extension of branch banking facilities to national banks in cities has not retained their resources in the system, has it?

Mr. POLE. Not at all, because that extension was to meet State bank competitors and gave the national bank no superior advantage.

Mr. FORT. On the contrary we have lost four and one-half billions in three years, in spite of extending that privilege.

Mr. POLE. From the national system, but not from the Federal Reserve System.

Mr. FORT. We have lost that because of the greater flexibility permitted banks under the State laws, have we not?

Mr. POLE. That is correct.

Mr. FORT. I think that is all.

Mr. WINGO. May I ask a few questions along the line of the questions Mr. Fort has been asking?

A moment ago, on the voting trust proposition—

Mr. BEEDY. Will you permit me, before we leave this particular subject to ask one question?

Mr. WINGO. Yes.

Mr. BEEDY. It has been developed here in answer to a question that the one thing that might tend to check this shift from the national to the state system would possibly be the attraction of membership in the Federal Reserve System, which membership would be doubly attractive if the national banks were permitted to establish branches beyond State lines. I do not want to say to the committee that I have given extensive consideration to that very problem, but I have in my possession a consideration of the cases bearing upon the right of Congress to pass a law authorizing national banks to establish

branches in States, even where the State law does not permit it. You recently answered a question which was asked you as to the power of national banks under Federal law to establish branches in more than one State irrespective of State lines. You said you thought there was such power, or you had been so advised. Have you any legal opinion in writing which you could put in the record at this point as bearing upon this subject?

Mr. POLE. I have, and shall be glad to do so.
(The opinion referred to is as follows):

NOVEMBER 16, 1929.

Memorandum for the comptroller.

You have requested my opinion as to the constitutional power of Congress to authorize the establishment of branches by national banks irrespective of State laws.

In order to fully cover the question involved, it is necessary to go back to the establishment of the first bank of the United States in 1791.

The legal theory upon which Congress enacted the national bank act and the Federal reserve act is the same as that upon which Congress authorized the establishment of the first bank of the United States in 1791 and the second bank of the United States in 1816. When the first bank was proposed in Congress, the constitutionality of the bill was seriously debated but a majority of both Houses supported it. The act as passed provided in part:

"It shall be lawful for the directors of aforesaid to establish offices wheresoever they shall think fit in the United States, for the purposes of discount and deposit only, and upon the same terms, and in the same manner, as shall be practiced at the bank, and to commit the management of such offices, and the making of the said discounts, to such persons, under such agreements, and subject to such regulations as they shall deem proper, not being contrary to law, or to the constitution of the bank."

President Washington signed the bill after considering the official opinions both for and against its constitutionality. The first bank of the United States was opened December 12, 1791, and established eight branches in several States, namely, in Boston, New York, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans. This is the first precedent of the establishment of branches by national banks. Upon the occasion of the failure of Congress to renew the charter of the bank, which expired in 1811, the constitutional question was again raised and some of the opposition against the renewal was upon the ground that Congress was without power to establish and maintain a national bank.

THE SECOND NATIONAL BANK OF THE UNITED STATES, 1816-1836

The attempt to finance the war of 1812-1814 without any banking instrumentality under the control of the Federal Government proved so disastrous that Congress in 1816 passed a new bill to charter a bank of the United States similar to the first bank, President Madison approving the act, having the year before vetoed a similar measure which did not meet his views. As compared with the first bank of the United States there was little difference between their organization and purpose.

The second Bank of the United States likewise established branches in various States in the Union. In 1818 the legislature of the State of Maryland passed an act the effect of which was to place a special tax upon the branch of the Bank of the United States in operation in Baltimore. The Baltimore branch refused to pay this tax; its cashier, McCulloch, was sued in the State court and a judgment sustained against him by the court of final jurisdiction. He thereupon sued out a writ of error under which the case was brought before the Supreme Court of the United States. Here for the first time the constitutional power of Congress to establish the bank, and of the bank to establish branches, was considered by that tribunal (*McCulloch v. Maryland*, 4 Wheat. 424.)

In the following year, 1819, the State of Ohio imposed a tax of \$50,000 on each of the two branches of the Bank of the United States, established at Cincinnati and Chillicothe. Upon the refusal of these branches to pay the tax the sheriff on behalf of the State seized \$98,000 in money. The State officials concerned were arrested by the Federal authorities and tried in the Federal Circuit Court where judgment was rendered against them to restore to the bank with

interest the funds seized. An appeal was taken to the Supreme Court of the United States (*Osborn v. Bank of the United States*, 9 Wheat 738), where again the constitutional power of Congress was brought into question and formed the basis of the opinion.

The opinions in both of these cases were written by Chief Justice Marshall, and for practical purposes can be considered as one case, the second being an elaboration and a review of the first.

The principles decided in these cases may be briefly stated as follows:

(1) Congress has the constitutional power to incorporate a national bank.

(2) The existence of State banks can have no influence upon the question of this paramount power of Congress.

(3) "After the most deliberate consideration, it is the unanimous and decided opinion of this court that the act to incorporate the bank of the United States is a law made in pursuance of the Constitution, and is a part of the supreme law of the land. The branches proceeding from the same stock, and being conducive to the complete accomplishment of the object, are equally constitutional." (*McCulloch Case* 4 Wheat 424.)

(4) Congress, having the constitutional power to create a national bank, has also the constitutional power to determine, authorize, or create the facilities necessary to enable it to perform the services for which it was created and Congress alone is the judge of the means to be employed in the exercise of these facilities.

The Supreme Court of the United States in these two cases upheld the power of a national bank, to establish branches in the various States without permission or authority from the State governments.

THE NATIONAL BANK ACT OF 1863

With the failure of Congress to renew the charter of the second bank of the United States the Federal Government operated without a banking instrumentality under its control until the enactment of the national bank act in 1863. That act set up a system of independent national banks rather than one central national bank with branches. The question of the power of national banks to establish branches did not again come before the Supreme Court of the United States until 1924, more than a century after the decision of *McCulloch v. Maryland* and *Osborn v. Bank of the United States* when it was presented in the case of the First National Bank in *St. Louis v. Missouri*. (263 U. S. 640.)

In the meantime, however, many cases had come before the Supreme Court of the United States in which it became necessary to interpret and construe the national bank act with reference to the charter powers of national banks in their relationship to the State legislatures, in all of which the fundamental principles enunciated in the *McCulloch* and the *Osborn* cases were sustained and followed. It seems appropriate to consider some of these cases before proceeding to the First National Bank in *St. Louis v. Missouri*.

PRIGG v. PENNSYLVANIA (16 PETERS, 539, 617-19)

The Supreme Court of the United States in discussing the respective domains of Federal and State legislation, said:

"If this be so, then it would seem upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation upon the same subject; and by necessary implication prohibit it. For, if Congress have a constitutional power to regulate a particular subject, and they do actually regulate it in a given manner, and in a certain form, it can not be, that the State legislatures have a right to interfere, and as it were, by way of compliment to the legislation of Congress, to prescribe additional regulations, and what they deem auxiliary provisions for the same purpose. In such a case, the legislation of Congress, in what it does prescribe, manifestly indicates, that it does not intend that there shall be any further legislation to act upon the subject matter. Its silence as to what it does not do, is an expressive of that its intention is, as the direct provisions made by it. This doctrine was fully recognized by this court, in the case of *Houston v. Moore* (5 Wheat, 1, 21-2), where it was expressly held, that where Congress have exercised a power over a particular subject given them by the Constitution, it is not competent for State legislation to add to the provisions of Congress upon that subject; for that the will of Congress upon the whole subject is as clearly established by what it has not declared, as by what it has expressed."

FARMERS' AND MECHANICS' NATIONAL BANK V. DEARING (91 U. S. 29, 1875)

This was a case before the Supreme Court which construed the national bank act with reference to the authority of the State governments and involved the application of the usury law of the State of New York. The court said:

"The constitutionality of the act of 1864 is not questioned. It rests on the same principle as the act creating the second bank of the United States. The reasoning of Secretary Hamilton and of this court in *McCulloch v. Maryland* (4 Wheat. 316), and in *Osborn v. Bk. (9 Wheat. 738)*, therefore applies. The national banks organized under the act are instruments designed to be used to aid the Government in the administration of an important branch of the public service. They are means appropriate to that end. Of the degree of the necessity which existed for creating them. Congress is the sole judge.

"Being such means, brought into existence for this purpose, and intended to be so employed, the States can exercise no control over them nor in anywise affect their operation, except in so far as Congress may see proper to permit. Anything beyond this is 'an abuse', because it is the usurpation of power which a single State can not give. Against the national will 'the States have no power, by taxation or otherwise, to retard, impede, burthen or in any manner control the operation of the constitutional laws enacted by Congress to carry into execution the powers vested in the General Government' (*Osborn v. Bk.*, supra; *Weston v. Charleston*, 2 Pet. 466; *Brown v. Maryland*, 12 Wheat. 419; *Dobbins v. Erie Co.*, 16 Pet. 435).

"The power to create carries with it the power to preserve. The latter is a corollary from the former.

"The principle, announced in the authorities cited, is indispensable to the efficiency, the independence, and, indeed, to the beneficial existence of the General Government; otherwise it would be liable, in the discharge of its most important trusts, to be annoyed and thwarted by the will or caprice of every State in the Union. Infinite confusion would follow. The Government would be reduced to a pitiable condition of weakness. The form might remain, but the vital essence would have departed. In the complex system of polity which obtains in this country, the powers of government may be divided into four classes.

"Those which belong exclusively to the States;

"Those which belong exclusively to the National Government;

"Those which may be exercised concurrently and independently by both;

"And those which may be exercised by the States, but only with the consent, express or implied, of Congress.

"Whenever the will of the Nation intervenes exclusively in this class of cases, the authority of the State retires and lies in abeyance until a proper occasion for its exercise shall recur (*Gilman v. Philadelphia*, 3 Wall. 713, 18 L. ed. 36; *Ex parte McNeil*, 13 Wall. 240, 20 L. ed. 625).

"The power of the States to tax the existing national banks lies within the category last mentioned.

"It must always be borne in mind that the Constitution of the United States, 'and the laws which shall be made in pursuance thereof,' are 'the supreme law of the land' (Const., art. 6), and that this law is as much a part of the law of each State, and as binding upon its authorities and people, as its own local constitution and laws."

CASEY V. GALLI (94 U. S. 673, 1877)

This case held that Congress had the power to authorize a State chartered bank to convert into a national bank without any assent or permission by the State upon the ground that no authority from the State was necessary.

DAVIS V. ELMIRE SAVINGS BANK (161 U. S. 275, 1896)

The court in denying the validity of a statute of the State of New York fixing preferences in cases of insolvency, in so far as it applied to national banks, through Mr. Justice White, said:

"National banks are instrumentalities of the Federal Government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a State to define their duties or control the conduct of their affairs is absolutely void, wherever such attempted exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation, or impairs the efficiency of these agencies of the Federal Government to discharge the duties for the performance of which they were created. These principles are axiomatic, and are sanctioned by the repeated adjudications of this court."

EASTON v. IOWA (188 U. S. 220, 1903)

In this case the president of a national bank was sentenced under a criminal statute of the State penalizing the receipt of deposits with knowledge of the insolvency of the bank.

In taking issue with the Supreme Court of the State, Mr. Justice Shiras, in delivering the opinion of the court, said:

"We think that this view of the subject is not based on a correct conception of the Federal legislation creating and regulating national banks. That legislation has in view the erection of a system extending throughout the country, and independent, so far as powers conferred are concerned, of State legislation which, if permitted to be applicable, might impose limitations and restrictions as various and as numerous as the States. Having due regard to the national character and purposes of that system, we can not concur in the suggestions that national banks, in respect to the powers conferred upon them, are to be viewed as solely organized and operated for private gain. The principles enunciated in *McCullough v. Maryland* (4 Wheat. 425, 4 L. ed. 606) and in *Osborn v. Bank of United States* (9 Wheat. 738, 6 L. ed. 204), though expressed in respect to banks incorporated directly by acts of Congress, are yet applicable to the later and present system of national banks."

* * * * *

"Such being the nature of these national institutions, it must be obvious that their operations can not be limited or controlled by State legislation, and the Supreme Court of Iowa was in error when it held that national banks are organized and their business prosecuted for private gain, and that there is no reason why the officers of such banks should be exempt from the penalties prescribed for fraudulent banking."

FIRST NATIONAL BANK v. FELLOWS (244 U. S. 416, 1917)

In this case the State of Michigan contested the power of Congress to enact the provisions of the Federal reserve act conferring trust powers upon national banks. The Supreme Court of the United States (opinion delivered by Mr. Chief Justice White) reversed the Supreme Court of Michigan and upheld the powers of Congress citing with approval the principles enunciated in *McCullough v. Maryland* and *Osborn v. Bank of the United States*. Referring to the basic principles of constitutional law laid down in the above two cases, the court further said: "The doctrines thus announced have been reiterated in a multitude of judicial decisions, and have been undeviatingly applied in legislative and enforced in administrative action."

FIRST NATIONAL BANK OF SAN JOSE v. STATE OF CALIFORNIA ET AL. (262 U. S. 366, 370)

In this case the Supreme Court declared invalid, so far as national banks were concerned, a State law providing for the escheat to the State of California of bank deposits remaining unclaimed for more than 20 years, and in commenting upon attempted interference with national banks by State legislation, said:

"This court has often pointed out the necessity for protecting Federal agencies against interference by State legislation. The approved principle of obstructions should be adhered to. (*McCulloch v. Maryland*, 4 Wheat. 316; *Osborn v. United States Bank*, 9 Wheat. 738; *Farmers' and Mechanics' National Bank v. Dearing*, supra; *California v. Central Pacific R. R. Co.*, 127 U. S. 1; *Davis v. Elmore Savings Bank*, supra; *Easton v. Iowa*, supra; *Covington v. First National Bank*, 198 U. S. 100; *Farmers and Mechanics Savings Bank v. Minnesota*, 232 U. S. 516; *Choctaw, Oklahoma and Gulf R. R. Co. v. Harrison*, 235 U. S. 292; *Bank of California v. Richardson*, 248 U. S. 476."

BARNES NATIONAL BANK v. DUNCAN (265 U. S. 17, 1924)

In this case the State of Missouri attempted to enforce against a national bank, the State law regulating the exercise of trust powers. The Supreme Court of the United States reversed the State Supreme Court upon the authority of the *Fellows* case and others above cited. Mr. Justice Holmes in delivering the opinion of the court reiterated the principle that the constitutional power of Congress was to be tested by the right to create the bank and the authority to attach to it that which was relevant in the judgment of Congress to make the business of the bank successful and that this excluded the power of the State in such cases.

FIRST NATIONAL BANK IN ST. LOUIS V. MISSOURI (263 U. S. 640, 1924)

This case involved primarily the question of the power of national banks to establish branches under the authority of the national bank act and rests upon a state of facts different from that of *McCulloch v. Maryland* in which the question of branches for national banks was first considered by the Supreme Court.

The First National Bank, upon the advice of its own counsel, proceeded to establish and conduct a branch bank in the city of St. Louis upon the theory that whereas the Federal statutes did not expressly authorize national banks to establish branches, such banks nevertheless possessed the incidental charter power so to do. No permission from the comptroller was obtained for the establishment of the branch. There was upon the statute books of the State a law prohibiting the establishment of branch banks in that State. The Attorney General of Missouri on behalf of the State took the position, first that the national bank exceeded its charter powers under the national bank act when it established the branch and second that there being no permissive Federal statute, the State was competent to enforce against the national bank its own law against branches. The following propositions are quoted from the brief of the Attorney General of the State which he filed before the Supreme Court of the United States:

(1) "Branch banking by a national bank in a State is conduct in excess of any authority from the Nation."

(2) "Acts of a national bank in a State which are in excess of any authority from the Nation, and in contravention of State law, can be stopped by the State."

(3) "An unauthorized, unlawful act of a national bank in a State should stand upon the same footing as the unauthorized, unlawful act of any other corporation."

(4) "A national agency is no more free from responsibility to the state for unlawful acts done in the State beyond the scope of its powers and authority than is a State agent."

(5) "The same conduct may be an offense against both State and national sovereignty, and may be restrained by both Nation and State."

It was upon these grounds that the action was brought by the State in the supreme court of the State in the nature of *quo warranto*. The formal allegation of the State was to the effect, first that the bank was not authorized by Congress to establish a branch and second, that in establishing the branch it violated a statute of the State expressly prohibiting the establishment of branch banks.

At the request of the Comptroller of the Currency the Attorney General of the United States intervened in this case, not however for the purpose of upholding the right of the national bank to establish the branch but to contest the jurisdiction of the State to inquire into the question whether Congress had authorized a national bank to establish a branch.

It was shown before the court that the office of the Comptroller of the Currency had for years construed the national bank act as denying the right of national banks to establish branches. This opinion was supported by an opinion of the Attorney General, May 11, 1911, which was cited with approval in the opinion of the court in this case. The principal argument of counsel on both sides before the court, and the bulk of the opinion of the court, is devoted to the question of whether Congress had authorized national banks to establish branches. The court reached the conclusion that there was no doubt, especially in view of the long-continued construction of the national bank act by the Comptroller of the Currency, that Congress had not conferred upon national banks the charter power to establish branches.

In view therefore of this condition precedent the court held that the State was competent to enforce its own law against the national bank. The question therefore of the constitutional power of Congress to permit national banks to establish branches was not involved in this case. The case is in harmony with the previous decisions of the court hereinabove considered. Had there been upon the Federal statute books an amendment to the national bank act permitting national banks to establish branches the Supreme Court of the United States would have undoubtedly held the State law invalid as applied to national banks. The question asked by the court of the State law, "Does it conflict with the laws of the United States?" would have been necessarily answered in the affirmative. In the absence of such an amendment the question was answered in the negative.

Congress inserted in the so-called *McFadden-Pepper Act* of February 25, 1927, a clause in its branch banking section, that branches of national banks would be permitted only in those States which permitted the State banks to establish

branches This clause was a concession to the States not as a matter of constitutional necessity but rather as a matter of legislative policy

In view of the above consideration there appears to be no doubt of the constitutional power of Congress to permit the national banks to establish branches in any State of the Union, irrespective of the laws of the State. If Congress determines that the national banks could better serve as instrumentalities of the Federal Government through the establishment of branches it would not be within the jurisdiction of a State to prohibit or restrict the purpose of the National Legislature to this effect.

F G AWALT,
Deputy Comptroller and Counsel.

Mr. WINGO You said you knew of no power by which we could prevent and control the State standards of banking. Is that true, do you think, in its entirety?

Mr. POLE I said I did not know of anything that Congress could do to control a State bank, except—

Mr. WINGO I am talking about a charter to the State bank, not talking about controlling the actual operation of the bank after it gets the charter, but about the powers of the bank secured from a charter given by the State—in other words, under the State banking laws. You say you do not know of any power we have to affect that?

Mr. POLE I know of none. Of course, I am not a lawyer

Mr. WINGO Let us speculate just a little bit and draw on experience, too. Let me cite to you the fact that we drove out of existence the State bank issues by the exercise of a Federal power, the taxing power.

Before I go into these illustrations I want it distinctly understood that by enumerating the possibilities I do not by my questions indicate my personal opinion on or approval of the use of any of these methods, but, in talking about possibilities, we will take the question of the commerce clause of the Constitution

Mr. POLE I thought you were talking about existing law

Mr. WINGO No; I am talking about the power to enact a law and that the effect of it would be to drive out of existence every State bank that did not come up to a standard that Congress fixed.

Mr. POLE I would not question that in any way.

Mr. WINGO As an illustration, we could use the taxing power to stop chain banking or group banking; we could use the interstate commerce clause; we could use the barring of the mails; we could provide that no national bank or Federal reserve bank should clear or have any relations with a bank that did not come up to a specific standard, and if we did those things would we not ultimately force the different State banks up to a standard that was comparable to the ideal standard that we have fixed in the national bank act?

Mr. POLE There is no question in my mind that Congress could eliminate the State banks

Mr. WINGO Is it not a question of the power of Congress by several means to check what we all recognize and what you denominate as the evils of chain and group banking? But your idea is that the ideal way to check these evils is to adopt what some other people regard as another evil, branch banking?

Mr. POLE Yes

Mr. WINGO If you are a chain banker or group banker, and you were given the alternative what reason or what motive or what philosophy would there appear to you that would lead you to say,

"I had better change my chain and my group into a branch banking system?"

Mr. POLE Greater mobility of resources and ease and economy of operation.

Mr. WINGO What do you mean by "greater mobility of resources?"

Mr. POLE That the transfer of funds from one section of the area in which I was operating my branch system to another would be far easier under the branch banking system than it would under the other systems which you speak of

Mr. WINGO I can not comprehend that statement, because I have an idea that the transfer of funds would either come by telegraph or by mail.

Mr. POLE Under the group plan, each bank is an independent unit, and it has its own investments, so that if it wished to transfer funds from one point to another, it would be under the necessity of selling some of its assets or transferring them through a holding company to some other bank which had funds

Mr. WINGO Not necessarily, it could transfer a deposit, could it not, without doing that?

Mr. POLE It could not transfer its deposits

Mr. WINGO What is to prevent a chain bank from making a transfer of its deposits in the same identical instance that a branch bank could? Suppose that here is a chain bank that has a deposit in New York City with a correspondent, and it is changed over night into a branch banking system. Is there any difference in the mechanics of transferring those funds in one case than in the other?

Mr. POLE We must be talking about different things

Mr. WINGO That is the reason I am asking you to elucidate

Mr. POLE If you were to deposit your funds in a bank which was a member of a group, it would not be within the province of the holding company which held the stock of that member of the group to transfer your deposit to another member of its group where funds might be needed for loaning purposes

Mr. WINGO Well, they are doing it everyday. Even if the laws of Arkansas prohibit branch banking, they do permit chains, and funds are being transferred from Arkansas to Nashville, Tenn., under chain banking and under group banking just the same as they would have the power to do if you had branch banking

Mr. POLE Funds may be transferred, funds which are involved in the operation of a single unit

Mr. WINGO That is what we are talking about

Mr. POLE But there would be no possibility of transferring the deposits of one independent bank which might be a member of the group to another independent bank which might be a member of the group.

Mr. WINGO You mean the book record, not the deposit

Mr. POLE The deposit

Mr. WINGO Are you talking about the actual money or the actual credit or the record on the books?

Mr. POLE I am talking about the actual credit. If a bank itself wished to transfer its funds, that still might be a very difficult matter

Mr. WINGO. We will say that there is a holding corporation in Nashville, Tenn.; can it not direct one of its chain banks in Arkansas to transfer my funds that are there to my credit—and there is no

occasion to specify "Wingo deposit"; they say, "from your deposits, you transfer \$10,000 or \$20,000"—whatever they wanted—"over to the depository in Nashville, Tenn."

Can they not do that now, and do they not do it?

Mr. POLE. Such funds as that may be moved, but they would be limited to the amount which the bank might deposit or the amount which the bank might borrow.

Mr. WINGO. That would be true in both instances.

Mr. POLE. With small banks it would be a very small amount, whereas in the branch banking system funds could be transferred very freely to any branch of the system.

Mr. WINGO. What limitation is there in the national bank act with reference to such transfers? The limitation you are talking about is the 10 per cent limitation, and that applies to loans.

Mr. POLE. No; I was not referring to that.

Mr. WINGO. What statute did you have in mind?

Mr. POLE. I was having in mind the statute where a bank could not keep on deposit, for instance—

Mr. WINGO. I see what you are driving at now.

Mr. STRONG. Are you going to finish soon?

Mr. WINGO. Yes; I have one or two more questions.

Is it not then true, talking about the standards of the State banks, that we have been engaged for years in this committee and in Congress in constantly framing our laws to meet the competition of State banks, and has not that been the chief cry and reason for our doing these things?

Mr. POLE. I think that is a fair statement of the situation.

Mr. WINGO. Was not that the late argument for the McFadden Act?

Mr. POLE. Yes.

Mr. WINGO. To liberalize the national bank standards, and whenever we pointed out objections to any particular proposal around this table, instead of discussing the merits of the objection, we were told that "Well, we have to do that in order to meet the competition of State banks."

Mr. POLE. That was largely the case in the McFadden bill.

Mr. WINGO. And the reason for that was that these State banks, as my friend Mr. Luce would say, had a baser standard, which was lower, and so we have governed our conduct in meeting this competition by reasons of expediency and not by measuring the standard or what should be the ideal, have we not?

Mr. POLE. In the McFadden bill there was some liberalization.

Mr. WINGO. I am talking about the major features of it.

Mr. POLE. Of course, the important thing in the McFadden bill was not so much the liberalization of a bank's privileges as it was with respect to the extension of branches.

Mr. WINGO. Oh yes; we had the argument made here that we ought to permit them to deal in securities because State banks were permitted to do it. I think every major proposal in the McFadden Act was bottomed not upon the justification that it was sound banking, but we were trying to meet the competition of State banking systems.

Can you name a major proposal where that argument was not made?

Mr. POLE. I think that is correct.

Mr. WINGO. And the point I want to drive home is this, that if there are evils in these State banking systems which, by reason of an enforced competition, are weakening the standard of the National system, would it not be profitable for us, instead of spending our time in devising schemes of expediency and lowering the national standard in order to meet this competition, to spend our time in devising legislation embracing methods by which we could enforce a higher standard in the State banking laws so as to protect both the State bank patrons as well as the national bank patrons from the evils of the baser standard as referred to by Mr. Luce?

Mr. POLE. I think we have to consider it from the economic point of view. The announced legislative policy of the so-called McFadden bank act of February 25, 1927, was parity between the National and State systems. The purpose of the bill was to make the charter powers of national banks approximately equal in operating advantage to those of the State banks. Nearly three years of operation under that act has demonstrated that it has failed of its purpose in this respect.

The theory of parity between the two systems of banks is, in my opinion, economically unsound.

Mr. WINGO. Should we not say that we will spend our time in bottoming everything we do upon building up the system that from an economic standard is sounder and better than the baser standard now permitted by the States?

Mr. POLE. I think so, and hence my proposal for an increase of branch banking powers for national banks without reference to State laws. I think that the economic change is such that the small bank can not operate successfully any more. I am, therefore, suggesting a plan which will enable banking service to be carried to every community from a metropolitan center.

Mr. WINGO. In other words, your theory is that the changed economic structure is such that in order for banking institutions to render to the public that service to which it is entitled, necessarily you have to have larger banking units?

Mr. POLE. That is correct.

Mr. WINGO. And you think that necessarily then in order to have larger banking units, you have to choose between three types—group banking, chain banking, or branch banking—and in your own mind branch banking possesses fewer of the evils and more of the benefits than the other two?

Mr. POLE. I think decidedly there is no question in my mind as to which is the best of the three, and I am not advocating either chain banking or group banking as a remedy.

Mr. WINGO. That is what I say.

Mr. POLE. I am advocating branch banking.

Mr. WINGO. Your ideal, as I understand it, is the independent unit banking system, but you say that changed economic conditions have made us face a condition and not a theory?

Mr. POLE. Yes.

Mr. WINGO. And your belief is—and your judgment is entitled to a great deal of weight—that the only choice we have now in order to do what you think is necessary is between a group banking system or a chain banking system or a branch banking system, and you think the branch banking system is preferable, both from the standpoint of

the service they may render, the superior service, and from the standpoint of having fewer evils than either of the other two systems?

Mr. POLE. And from the standpoint of successful operation.

Mr. WINGO. That is included.

Now, let us go back to the proposition of the trustee. Is it not a fact that the courts in New York City now sometimes designate banks as receivers and trustees, and permit those banks to deposit with themselves the trust funds and to pay the trust estate, of which it is receiver, or trustee, only 2 per cent, or whatever the current rate is, upon deposit balances, and the bank gets the benefit of those funds and in some instances makes 10 or 12 per cent, or whatever its earning is upon its deposits, and, in addition thereto, draws its fees as trustee and remuneration as receiver? Is not that an actual practice in New York City and possibly in other cities and States?

Let us just take one instance, and it is not an isolated one. Do you not know that the Irving Trust Co. had such an experience? Was it not appointed receiver, and did not the court permit it to deposit the trust funds in its own institution and let them use them and simply account to the trust estate for the current rate of interest on deposit balances, and, in addition thereto, the same court allowed them a fee for acting as receiver?

Mr. FORT. If the gentleman will permit, I understand that in New York there have been some modifications made of the ordinary rules applicable to trustees, in favor of corporate trustees under the supervision of the banking department as organized.

Mr. WINGO. That is true.

Mr. FORT. As against individual trustees.

Mr. WINGO. What I am talking about is this, that regardless of the fundamental rules, time and experience as well as statutes have set up certain safeguards governing the use of trustees' funds. I am not discussing whether they are wise or unwise, whether they should be permitted to be changed or not; I am talking about what is actually being done. Is not that very thing being done in New York City? I am not undertaking to criticize it, to say whether it is justified or not; I am just asking you if it is not a fact that in actual practice, such as in the illustration I have used, that that has taken place in more than one instance in New York City?

Mr. POLE. I know nothing, of course, of the Irving Trust Co. I think as a general rule that trust funds do not remain uninvested for any great length of time.

Mr. WINGO. That, of course, does not answer my question. You do not know whether any such practice as I have given obtains or not?

Mr. POLE. No, I do not.

Mr. STRONG. Is that all, Mr. Wingo?

Mr. WINGO. Can you conceive of any reason why a trust estate should not be protected by the same jealous rules when a corporation is dealing with it as when an individual is dealing with it?

Mr. POLE. None at all.

Mr. STRONG. Mr. Goodwin has a matter that he wants to bring before the committee.

(Thereupon, 1.15 o'clock p. m., the committee went into executive session.)

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