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Subject File, Federal Reserve Board, Steagall Bill, H.R. 10241, 1932

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SUBJECT FILE

FEDERAL RESERVE BOARD
STEAGALL BILL H.R. 10241

1932

PRINCIPAL DIFFERENCES BETWEEN H.R. 11362 and H.R. 10241.

On March 7, 1932, Mr. Steagall introduced H.R. 10241, a bill "to amend the National Banking Act and the Federal Reserve Act, and to provide a guaranty fund for depositors in national banks." On April 14, 1932, he introduced H.R. 11362, a bill having generally the same purposes. In the following paragraphs, there are set forth the more important differences between the two bills, (H.R. 10241 being referred to as the old bill and H.R. 11362 as the new bill.)

The old bill contained a provision eliminating the existing authority for the organization of a national bank with a minimum capital of \$25,000 in a city of less than 3,000 inhabitants. The provision eliminating this authority is retained in the new bill which provides, however, that a national bank may be organized with a capital of not less than \$25,000 for the purpose of succeeding to the business of an existing bank.

Whereas the old bill would have eliminated the double liability of shareholders of national banks hereafter organized except those banks which have branches, the new bill omits the exception as to national banks having branches, thus making the exemption from double liability apply in the case of all national banks hereafter organized.

The old bill contained a provision eliminating from the Federal Reserve Act the prohibition upon making collection or exchange charges against Federal reserve banks, but the new bill would not change the law on this subject.

The new bill contains certain additional provisions regarding national and member banks: (a) a limit upon the rate of interest which may be paid upon deposits, (b) provisions making the rate of dividend

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which may be paid by a member bank dependent upon the amount of its surplus, and (c) provisions for the removal of an officer or director of a national bank where his service is detrimental to its operation.

The provisions of the old bill with reference to the Federal Banking Liquidating Board and the Guaranty Fund are also amended in certain particulars. The old bill provided for a total initial payment by member banks of \$200,000,000 (in addition to the payments by the United States and the Federal Reserve Banks) based partly upon demand deposits and partly upon time deposits, whereas the new bill provides for an initial payment by member banks of only \$100,000,000, based on all deposits. The new bill also permits nonmember banks to become contributors to the guaranty fund and to share in its benefits under certain conditions, one of which is that the contribution of a nonmember bank shall be twice the amount required of a member bank having the same amount of deposits. Authority is also given by the new bill for borrowing by the Liquidating Board from the Reconstruction Finance Corporation until January 22, 1934, up to the maximum of \$500,000,000.

SUMMARY OF THE PROVISIONS OF H.R. 11362.

The provisions of this bill divide themselves conveniently into four portions: (a) amendments to the National Banking Laws; (b) amendments to the Federal Reserve Act; (c) provisions affecting member banks but not amending any specific provisions of law; and (d) provisions establishing a Federal Guaranty Fund for depositors in member banks of the Federal Reserve System.

AMENDMENTS TO NATIONAL BANKING LAWS.

The amendments to the National Banking Laws, which are contained in Sections 1, 2, 3 and 4 of the bill, refer in all cases only to national banks which may be organized hereafter. These amendments contain three important changes in the law: (1) The existing authority for the organization of a national bank with a minimum capital of \$25,000 in places of not exceeding 3,000 inhabitants would be replaced by a provision authorizing the formation of a national bank with a minimum capital of \$25,000 for the purpose of succeeding to the business of an existing bank, (2) no national bank may be organized unless it has a surplus of not less than 10% of its capital stock, and (3) provisions for the double liability of shareholders of national banks are eliminated.

Section 1 of the bill eliminates from Section 5138 of the Revised Statutes the provision that national banks may be organized in places of not exceeding 3,000 inhabitants with a minimum capital of \$25,000, and inserts a provision in lieu thereof which would permit the

formation of a national bank for the purpose of succeeding to the business of an existing bank, in the discretion of the Comptroller of the Currency, with a minimum capital of \$25,000.

Section 2 of the bill amends Section 5138 of the Revised Statutes so as to provide that no national bank shall be organized except with an initial surplus equal to 10% of its capital stock, and provides a number of corresponding amendments to other provisions of the national banking laws in order to make them conform to this requirement. Thus, for this purpose:

Section 5168 of the Revised Statutes, which requires the Comptroller of the Currency to examine into the condition of a national bank, and especially whether 50% of its capital stock has been paid in, in order to determine whether the bank is lawfully entitled to commence business, is amended to require the Comptroller to ascertain also whether 50% of the required initial surplus has been paid in.

The Act of November 7, 1918, as amended, providing for the consolidation of national banks, and for the consolidation of a State bank with a national bank, is amended to require that the consolidated institution in each such case shall have an initial surplus, as well as a capital stock, in the amount required for the organization of a national bank in the place in which it is located.

Section 5154 of the Revised Statutes, providing for the conversion of a State bank into a national bank, is amended to require that the converted institution have an initial surplus

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not less than that required for the organization of a national bank in the place in which it is located. Section 5140 of the Revised Statutes, requiring at least 50% of the capital stock of a national bank to be paid in before it is authorized to commence business and the remainder to be paid in in 10% monthly installments is amended to make similar requirements with regard to the required initial surplus.

Section 5141 of the Revised Statutes, which authorizes the sale of the stock of any shareholder who fails to pay any installment on his stock as required by law, is amended so as to give the same authority in the case of a failure to pay any installment of the initial surplus.

Section 5205 of the Revised Statutes, which provides for assessments upon stockholders of a national bank in case its capital stock is not paid up or in case of an impairment therein and for the appointment of a receiver when the deficiency is not made up within three months after notice, is amended to provide for such assessments where the initial surplus is not paid up and for the appointment of a receiver where the deficiency in initial surplus is not met within the three months' period. Apparently an impairment in initial surplus would not be grounds for such an assessment. The provision of Section 5205 authorizing the sale of the stock of a share-

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holder who fails to pay such assessment against him would be omitted by this amendment, apparently by mistake.

Section 5143 of the Revised Statutes, which authorizes reductions in capital stock of national banks, is amended so as to include surplus in its provisions. The amendment is ambiguous, but apparently all the present requirements for a reduction of capital, including two-thirds' vote of shareholders and approval of the Federal Reserve Board and of the Comptroller of the Currency, would be applicable as to every reduction in surplus.

Section 3 of the bill amends Section 5151 of the Revised Statutes and Section 23 of the Federal Reserve Act so as to eliminate the provision for the double liability of shareholders as to national banks hereafter organized.

Section 4 of the bill provides that the provisions of Sections 1, 2 and 3 shall apply only to national banks organized after the date of the enactment of this Act, stipulating, however, that the provisions of law amended by such sections shall apply, in their now existing form, to all national banks organized prior to the enactment of this act.

AMENDMENTS TO THE FEDERAL RESERVE ACT.

Sections 5 and 6 of the bill contain amendments to the Federal Reserve Act with regard to the distribution of earnings of Federal reserve banks, and the giving of immediate credit by Federal reserve banks for items received for collection.

Section 5 would amend the first paragraph of Section 7 of the Federal Reserve Act so as to provide that the net earnings of each Federal reserve bank shall be distributed as follows: After the payment to member banks of the 6% dividend now provided for and the payment of 10% of the net earnings to surplus, one-half of the remainder of the net earnings shall be paid to the Federal Guaranty Fund for depositors of member banks, (provided for in later sections of this bill) and the remaining one-half shall be paid to the member banks in proportion to the amount of their capital stock. The payment of the franchise tax by Federal reserve banks to the United States would thus be eliminated. The second paragraph of Section 7, with regard to the manner in which funds paid to the United States either as a franchise tax or upon dissolution of the Federal reserve bank are to be used, is amended to make the necessary corresponding changes.

Section 6 would amend Section 13 of the Federal Reserve Act by adding at the end of the first paragraph a new paragraph requiring a Federal reserve bank upon application of "a sending bank" to give immediate credit for checks and drafts received from such bank for collection and authorizing the Federal reserve bank to charge interest on the amount of the

credit at the current rediscount rate pending the collection of the item or, with the approval of the Federal Reserve Board, to establish a time schedule for this purpose.

MISCELLANEOUS PROVISIONS NOT AMENDING ANY SPECIFIC
PROVISION OF LAW.

Sections 7, 8 and 9 of the bill contain certain provisions which affect national banks and member banks of the Federal Reserve System but which do not in terms amend any specific provision of the National Banking Act, the Federal Reserve Act or any other statute.

Section 7 would prohibit the payment of interest at a rate in excess of 4% per annum by any member bank of the Federal Reserve System upon any deposit made after the enactment of the act.

Section 8 would prohibit a member bank (a) to pay any dividend unless its surplus is more than 25% of its paid-in capital stock, (b) to pay any dividend at a rate in excess of 6% per annum unless its surplus is more than 50% of its paid-in capital stock, or (c) to pay any dividend in excess of 8%, unless its surplus is more than 100% of its paid-in capital stock. Where its surplus is more than 100% of its paid-in capital stock, the rate of dividend would not be limited.

Section 9 would require the Comptroller of the Currency, whenever he finds that the continued service of any officer or director of a national bank is detrimental to its safe operation, to certify this fact to the Federal Bank Liquidating Board (provided for in a later section of the bill). Within thirty days thereafter the board would be required to hold a hearing at which such officer or director would have the right to be heard and be represented by counsel. If the board affirms the finding

of the Comptroller, it would be required to order the removal of the officer or director and to notify the bank involved, which must thereupon take such action as may be necessary to remove the officer or director.

PROVISIONS FOR GUARANTY FUND FOR DEPOSITORS OF MEMBER BANKS.

The remaining sections of the bill, designated Sections 201 to 211, and comprising what is known as Title II of the bill, provide for the establishment of a Federal Bank Liquidating Board and for the guaranty of the deposits of member banks.

Section 201 of the bill establishes a Federal Bank Liquidating Board consisting of the Secretary of the Treasury, the Comptroller of the Currency, and three citizens of the United States appointed by the President by and with the advice and consent of the Senate. The appointive members, not more than one of whom shall be of the same political party as the President, are to hold office for four years and each is to receive a salary of \$10,000 per annum. The appointive members are ineligible during the time they are in office, and for one year thereafter, to hold office or employment in any member bank or in or on the Federal Reserve Board. The Liquidating Board shall elect its own chairman and other officers and may employ and fix the compensation of its officers, attorneys, agents, examiners and employees, but the compensation shall not be at a rate in excess of \$10,000 per annum in any case. Expenses are to be paid out of the guaranty fund herein provided for.

Section 202 establishes a Federal guaranty fund for depositors in member banks of the Federal reserve system. This fund is to be created by payments from three sources; (a) The entire amount heretofore paid to the United States as a franchise tax by the Federal reserve

banks shall be paid by the United States to the guaranty fund; (b) The Federal reserve banks are to pay to the fund \$150,000,000, the amount required of each to be determined pro rata according to the amount of its surplus on December 31, 1931; and (c) The board shall require the member banks to pay to the fund such an amount as it may fix, not exceeding \$100,000,000, the amount required of each member bank to be determined pro rata according to its average deposits during the preceding calendar year. At any time after one year subsequent to the payment of the above amounts, the board may, if in its judgment the amount of the fund is inadequate, require the member banks to pay annually to the fund not more than \$100,000,000 pro rated among them according to their average deposits for the preceding calendar year. All sums payable either by a Federal reserve bank or by a member bank are subject to the call of the Liquidating Board, except that amounts assessed against member banks shall be payable in installments of not more than 25% of the assessment. If at any time the amount of the fund exceeds \$500,000,000, and in the judgment of the Board is in excess of the amount required for the purposes of the law, the Board shall make a refund of the excess amount to the contributing banks, the amount of the refund to any bank being pro rated according to its contribution to the last annual contribution of all banks. Sums in the guaranty fund may be invested by the board in interest bearing obligations of the United States or deposited in member banks without interest.

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Section 203 provides that whenever a national bank which has contributed to the fund has been closed by its directors or by the Comptroller of the Currency, or has become insolvent in the judgment of the Comptroller, he shall so certify to the liquidating board, which shall proceed to take over and wind up the bank in accordance with the law. The Board is to have the same powers and duties and is to be subject to the same limitations as the Comptroller in winding up such a national bank. Within thirty days after the receipt of the certificate of insolvency by the board, a committee consisting of one person appointed by the board, one appointed by the owners of a majority of the stock of the bank and one appointed by the depositors of more than 50 per cent of the outstanding deposits of the bank shall estimate the value of the assets and the amount of the liabilities of the bank and make a statement of the amount of the outstanding deposit of each depositor.

Section 204 provides that, on the basis of this estimate, as modified by the board, and not less than ninety days after the certification of insolvency, the board shall pay to each depositor whose outstanding deposit is not more than \$1,000 not less than fifty per cent thereof, and to each other depositor not less than twenty-five per cent of his outstanding deposit, or \$500, whichever is greater. Within six months after such payment the board is to pay each depositor of the former class the remaining amount due him (and it would seem to be the intention to provide that other depositors shall, within this six months' period, be paid an additional twenty-five per cent of their deposits, but no such provision is contained

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in the bill.) Within the next six months period an additional twenty-five per cent shall be paid to all depositors not yet paid and within six months thereafter full payment shall be made to all depositors.

Section 205 provides that the board, or a liquidating agent duly authorized by the board, may borrow money on the security of the assets of any insolvent national bank for the purpose of paying its depositors and creditors.

Section 206 provides that in case of insolvency of a State member bank, the board shall request its receiver or liquidating agent to submit a report and estimate such as that required of the Committee in the case of a national bank; and the board upon approval of such report and estimate shall pay the receiver or liquidating agent in trust for the depositors the same amounts, and at the same times, as in the case of national banks. For this purpose, the board is given the power of examination of such an insolvent State member bank.

Section 207 makes it mandatory upon the Federal Reserve Board, after hearing, to forfeit the membership of any member bank failing to comply with the requirements of the bill with respect to the Guaranty Fund or any regulation of the Liquidating Board; and a national bank failing to comply with such provisions of the bill shall, in addition, forfeit all rights and franchises granted to it by the law (apparently without any court proceeding, but upon the basis of the hearing conducted by the Federal Reserve Board.)

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Section 208 provides that any bank, which is not a member of the Federal Reserve System, with a capital and surplus of not less than \$25,000, may with the approval of the Liquidating Board, contribute to the guaranty fund and upon insolvency the depositors of such bank shall be entitled to the same benefits as those of an insolvent State member bank under section 206 above. No nonmember bank may contribute to the guaranty fund, however, until after examination of the bank and determination by the Liquidating Board that the bank is in sound financial condition and, as a condition to the privilege of contributing to the fund, the bank must submit to examination by the Board at any time; with a proviso, however, that for a period of not exceeding three years after the passage of the Act, a nonmember bank may share in the benefits of the guaranty fund upon certificate of the State examining authorities that such bank is in sound financial condition. The amount of the initial contributions and annual contributions of nonmember banks shall be twice the amount of those required of member banks. Sums payable by nonmember banks shall be subject to call of the Liquidating Board but the amount of any assessment shall be payable in installments of not more than 25% each. The Liquidating Board may require a nonmember bank to withdraw from participation in the benefits of the guaranty fund or require it "to go into liquidation and receive the benefits of such participation". Upon withdrawal from participation, the bank shall be paid a part of its last annual contribution, the amount to be repaid decreasing proportionately according to the

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number of months which have elapsed since such last contribution.

Section 209 authorizes the Liquidating Board, until January 22, 1934, to borrow from the Reconstruction Finance Corporation such sums as may be deemed necessary to carry out the purposes of the law, but not in excess of \$500,000,000 at any one time. The Reconstruction Finance Corporation "shall make such loans" as are applied for by the Liquidating Board and applications by the board shall be preferred above other applications and expedited in every way possible. No security shall be required for such loans and they shall bear interest at a rate agreed upon by the board and the corporation. Such a loan shall be repaid in installment payments out of the guaranty fund and all such loans shall be payable in full not later than January 22, 1942. The Reconstruction Finance Corporation is required to issue, in accordance with the provisions of the Reconstruction Finance Corporation Act, such notes, debentures, bonds and other obligations as may be necessary to carry out the purposes of this law.

Section 210 authorizes the Liquidating Board to make regulations necessary to carry out the provisions with respect to the Guaranty Fund.

Section 211 authorizes appropriations of such sums as may be necessary to carry out the provisions of this act.

72D CONGRESS
1ST SESSION

H. R. 10241

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1932

Mr. STEAGALL introduced the following bill; which was referred to the Committee on Banking and Currency and ordered to be printed

A BILL

To amend the National Banking Act and the Federal Reserve Act, and to provide a guaranty fund for depositors in national banks.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I

4 SECTION 1. The first sentence of section 5138 of the
5 Revised Statutes, as amended (U. S. C., Supp. V, title 12,
6 sec. 51), is amended by striking out the comma after the
7 word "inhabitants" and the following: "and except that
8 such associations with a capital of not less than \$25,000
9 may, with the sanction of the Secretary of the Treasury,

1 be organized in any place the population of which does not
2 exceed three thousand inhabitants."

3 SEC. 2. (a) Section 5138 of the Revised Statutes, as
4 amended (U. S. C., Supp. V, title 12, sec. 51), is amended
5 by adding the following new sentence: "No association
6 shall be organized unless with a surplus (hereinafter called
7 initial surplus) of not less than an amount equal to 10 per
8 centum of its capital stock."

9 (b) Section 5618 of the Revised Statutes (U. S. C.,
10 title 12, sec. 26) is amended to read as follows:

11 "SEC. 5618. Whenever a certificate is transmitted to
12 the Comptroller of the Currency, as provided in this title,
13 and the association transmitting the same notifies the comp-
14 troller that at least 50 per centum of its capital stock and
15 that at least 50 per centum of its initial surplus has been
16 duly paid in, and that such association has complied with
17 all the provisions of this title required to be complied with
18 before an association shall be authorized to commence the
19 business of banking, the comptroller shall examine into the
20 conditions of such association, ascertain especially the
21 amount of money paid in on account of its capital and on
22 account of its initial surplus, the name and place of resi-
23 dence of each of its directors, and the amount of the capital
24 stock of which each is the owner in good faith, and gen-
25 erally whether such association has complied with all the

1 provisions of this title required to entitle it to engage in
2 the business of banking; and shall cause to be made and
3 attested by the oaths of a majority of the directors, and by
4 the president or cashier of the association, a statement of
5 all the facts necessary to enable the Comptroller to deter-
6 mine whether the association is lawfully entitled to
7 commence the business of banking."

8 (c) The first proviso of section 1 of the Act entitled
9 "An Act to provide for the consolidation of national bank-
10 ing associations," approved November 7, 1918 (U. S. C.,
11 title 12, sec. 33), is amended to read as follows: "Provided,
12 That the capital stock and initial surplus of such consolidated
13 association shall be not less than that required under exist-
14 ing law for the organization of a national bank in the place
15 in which it is located."

16 (d) That portion of the second sentence of section 3
17 of such Act of November 7, 1918, as amended (U. S. C.,
18 Supp. V, title 12, sec. 34a), before the semicolon in such
19 sentence is amended to read as follows: "The capital stock
20 and initial surplus of such consolidated association shall not
21 be less than that required under existing law for the organi-
22 zation of a national banking association in the place in which
23 such consolidated association is located."

24 (e) Section 5154 of the Revised Statutes, as amended
25 (U. S. C., title 12, sec. 35), is amended by adding after

1 the first proviso the following: " : *Provided*, That the initial
2 surplus of such association shall be not less than that re-
3 quired under existing law for the organization of a national
4 banking association in the place in which such association
5 is located."

6 (f) Section 5140 of the Revised Statutes (U. S. C.,
7 title 12, sec. 53) is amended to read as follows:

8 "SEC. 5140. At least 50 per centum of the capital
9 stock and at least 50 per centum of the initial surplus of
10 every association shall be paid in before it shall be authorized
11 to commence business, and the remainder of the capital
12 stock and initial surplus shall be paid in installments of at
13 least 10 per centum each, on the whole amount of the cap-
14 ital and initial surplus, as frequently as one installment at
15 the end of each succeeding month from the time it shall be
16 authorized by the Comptroller of the Currency to commence
17 business; and the payment of each installment shall be
18 certified to the comptroller under oath by the president or
19 cashier of the association."

20 (g) The first two sentences of section 5141 of the
21 Revised Statutes (U. S. C., title 12, sec. 54) are amended
22 to read as follows: "Whenever any shareholder, or his
23 assignee, fails to pay any installment on the stock or on the
24 initial surplus when the same is required by the preceding
25 section to be paid, the directors of such association may sell

1 the stock of such delinquent shareholder at public auction,
2 having given three weeks' previous notice thereof in a
3 newspaper published and of general circulation in the city
4 or county where the association is located, or, if no news-
5 paper is published in said city or county, then in a news-
6 paper published nearest thereto, to any person who will
7 pay the highest price therefor, to be not less than the amount
8 then due thereon (including amounts due from such share-
9 holder with respect to initial surplus), with the expenses of
10 advertisement and sale; and the excess, if any, shall be paid
11 to the delinquent shareholder. If no bidder can be found
12 who will pay for such stock the amount due thereon (includ-
13 ing amounts due from such shareholder with respect to
14 initial surplus) to the association, and the cost of advertise-
15 ment and sale, the amount previously paid shall be forfeited
16 to the association, and such stock shall be sold as the directors
17 may order within six months from the time of such for-
18 feiture and if not sold it shall be canceled and deducted
19 from the capital stock of the association."

20 (h) The first two sentences of section 5205 of the
21 Revised Statutes, as amended (U. S. C., title 12, sec. 55),
22 are amended to read as follows: "Every association which
23 shall have failed to pay up its capital stock or initial surplus,
24 as required by law, and every association whose capital
25 stock shall have become impaired by losses or otherwise,

1 shall, within three months after receiving notice thereof
 2 from the Comptroller of the Currency, pay the deficiency
 3 in the capital stock and initial surplus, by assessment upon
 4 the shareholders pro rata for the amount of capital stock
 5 held by each; and the Treasurer of the United States shall
 6 withhold the interest upon all bonds held by him in trust
 7 for any such association, upon notification from the Com-
 8 ptroller of the Currency, until otherwise notified by him. If
 9 any such association shall fail to pay up its capital stock
 10 and initial surplus, and shall refuse to go into liquidation, as
 11 provided by law, for three months after receiving notice
 12 from the comptroller, a receiver may be appointed to close
 13 up the business of the association, according to the provisions
 14 of section 5234."

15 (i) That part of section 5143 of the Revised Statutes,
 16 as amended (U. S. C., title 12, sec. 59), before the semi-
 17 colon is amended to read as follows: "Any association
 18 formed under this title may, by the vote of shareholders
 19 owning two-thirds of its capital stock, reduce its capital and
 20 surplus to any sum not below the amount required by exist-
 21 ing law to authorize the formation of associations."

22 SEC. 3. (a) Section 5151 of the Revised Statutes and
 23 section 23 of the Federal Reserve Act (relating to liability
 24 of shareholders of national banking associations) (U. S. C.,
 25 title 12, secs. 63, 64) are amended by striking out the

1 words "in addition to the amount invested in such shares"
 2 wherever they appear.

3 (b) This section shall not apply to the shareholders of
 4 any national banking association which operates or establishes
 5 a branch.

6 SEC. 4. The provisions of sections 1, 2, and 3 of this
 7 Act shall apply only to national banking associations organ-
 8 ized after the date of enactment of this Act.

9 SEC. 5. (a) The second sentence of the first paragraph
 10 of section 7 of the Federal Reserve Act (U. S. C., title 12,
 11 sec. 289) is amended to read as follows: "After the afore-
 12 said dividend claims have been fully met 10 per centum
 13 of the net earnings of such bank shall be paid into the
 14 surplus. One-half of the remainder of the net earnings
 15 shall be paid into the Federal guaranty fund for depositors
 16 in member banks of the Federal reserve system, and the
 17 remaining one-half shall be paid to the member banks of
 18 the Federal reserve system, of which amount each such
 19 bank shall be paid an amount which bears the same ratio
 20 to the amount of such remaining one-half as the paid-in
 21 capital stock owned by stockholders in such member bank
 22 bears to the total paid-in capital stock owned by all stock-
 23 holders in all member banks of such Federal reserve bank."

24 (b) The first sentence of the second paragraph of
 25 section 7 of the Federal Reserve Act is repealed.

1 (c) The second sentence of the second paragraph of
 2 section 7 of the Federal Reserve Act is amended to read as
 3 follows: "Should a Federal reserve bank be dissolved or
 4 go into liquidation, any surplus remaining, after the pay-
 5 ment of all debts, dividend requirements as hereinbefore
 6 provided, and the par value of the stock, shall, in the discre-
 7 tion of the Secretary, be used to supplement the gold reserve
 8 held against outstanding United States notes, or shall be
 9 applied to the reduction of the outstanding bonded indebted-
 10 ness of the United States under regulations to be prescribed
 11 by the Secretary of the Treasury."

12 SEC. 6. The second proviso of the first paragraph of
 13 section 13, as amended, of the Federal Reserve Act (U. S.
 14 C., title 12, sec. 342) is amended to read as follows: "*Pro-*
 15 *vided further*, That nothing in this or any other section of
 16 this Act shall be construed as prohibiting a member or non-
 17 member bank from making reasonable charges, but in no
 18 case to exceed 10 cents per \$100 or fraction thereof, based
 19 on the total of checks and drafts presented at any one time,
 20 for collection or payment of checks and drafts and remission
 21 therefor by exchange or otherwise."

22 SEC. 7. The first paragraph of section 13, as amended,
 23 of the Federal Reserve Act (U. S. C., title 12, sec. 342)
 24 is amended by adding at the end thereof the following new
 25 paragraph:

1 "Upon application of a sending bank, a Federal
 2 reserve bank shall give immediate credit on checks and
 3 drafts received from such bank for collection, but the Fed-
 4 eral reserve bank may charge on such credit an amount of
 5 interest calculated at the current rediscount rate from the
 6 time of receipt of such item to the time of collection thereof,
 7 or with the approval of the Federal Reserve Board, may
 8 establish a time schedule for the calculation of such period."

9 TITLE II

10 SEC. 201. There is hereby established a board to be
 11 known as the Federal Bank Liquidating Board (hereinafter
 12 called the board), which shall consist of the Secretary of the
 13 Treasury, the Comptroller of the Currency, and three citizens
 14 of the United States appointed by the President by and
 15 with the advice and consent of the Senate. Not more than
 16 one of the appointive members of the board shall be of the
 17 same political party as the President. The appointive mem-
 18 bers of the board shall hold their offices for a term of four
 19 years, except that a member appointed to fill a vacancy
 20 shall serve only for the unexpired portion of the term of
 21 the member whom he succeeds. Each appointive member
 22 shall receive a salary of \$10,000 per annum, payable
 23 monthly. The appointive members of the board shall be
 24 ineligible, during the time they are in office and for one
 25 year thereafter, to hold any office, position, or employment

1 in any member bank of the Federal reserve system or in or
 2 on the Federal Reserve Board. The board shall elect its
 3 own chairman and other officers, and is authorized to employ
 4 and fix the compensation of such officers and employees of
 5 the board as it deems necessary, but the compensation
 6 of no officer or employee of the board shall exceed \$10,000
 7 per annum. The Secretary of the Treasury and the Com-
 8 troller of the Currency shall receive no compensation for
 9 service as members of the board.

10 SEC. 202. (a) There is hereby established a fund to be
 11 known as the Federal guaranty fund for depositors in mem-
 12 ber banks of the Federal reserve system (hereinafter called
 13 the fund). There shall be paid into such fund an amount
 14 equal to the entire sums heretofore paid to the United
 15 States as franchise tax by the Federal reserve banks. The
 16 board shall, as soon as practicable after the enactment of this
 17 Act, require each Federal reserve bank to pay into the fund
 18 an amount which bears the same ratio to \$150,000,000 as
 19 the surplus of such bank on December 31, 1931, bears to
 20 the total surplus of all Federal reserve banks on December
 21 31, 1931. The board shall also require the payment into
 22 the fund by the member banks of the Federal reserve system
 23 of such amount (not to exceed \$130,000,000) as may be
 24 fixed by the board, of which each such bank shall pay an
 25 amount which bears the same ratio to the sum fixed by the

1 board as the average deposits of such bank (other than time
 2 deposits) during the preceding calendar year bear to the
 3 average deposits (other than time deposits) of all member
 4 banks during the preceding calendar year; and such amount
 5 (not to exceed \$70,000,000) as may be fixed by the board,
 6 of which each bank shall pay an amount which bears the
 7 same ratio to the amount fixed by the board as the average
 8 time deposits of such bank during the preceding calendar
 9 year bear to the average time deposits of all member banks
 10 during the preceding calendar year.

11 (b) At any time after twelve months after the payment
 12 of sums required to be paid under subsection (a), if, in the
 13 judgment of the board, the sums in the fund are inadequate
 14 to carry out the provisions of this title, the board is author-
 15 ized to require the member banks of the Federal reserve
 16 system to pay annually into the fund the whole or any part
 17 of \$100,000,000. Each bank shall pay an amount which
 18 bears the same ratio to \$100,000,000 (or such part thereof
 19 as may be fixed by the board) as the net earnings of such
 20 bank during the preceding calendar year bear to the net
 21 earnings of all member banks during the preceding calendar
 22 year.

23 (c) Sums payable by a Federal reserve bank or by a
 24 member bank under this section shall be subject to call in

1 whole or in part by the board at such times as may be
2 fixed by the board.

3 (d) If at any time, in the judgment of the board,
4 there are in the fund sums in excess of an amount adequate
5 to carry out the provisions of this title, the board shall
6 refund to each Federal reserve bank and each national
7 bank an amount which bears the same ratio to such excess
8 as the amount which such Federal reserve bank or national
9 bank contributed to the fund.

10 (e) Sums in the fund shall be invested only in such
11 interest-bearing direct obligations of the Government of the
12 United States as the board determines, or noninterest-
13 bearing deposits in member banks of the Federal reserve
14 system.

15 SEC. 203. Whenever a national bank is insolvent the
16 Comptroller of the Currency shall so certify to the board,
17 which shall proceed to wind up such bank in the manner
18 provided by existing law except as modified by this title.
19 Within thirty days after receipt of such certificate of insol-
20 vency by the Board a committee consisting of one person
21 appointed by the Board, one appointed by the owners of a
22 majority of the stock of such bank, and one appointed by
23 the depositors of more than 50 per centum of the amount
24 of outstanding deposits in such bank, shall make an estimate
25 of the value of the assets of such bank, and the amount of

1 the liabilities of such bank and a statement of the amount
2 of the outstanding deposit of each depositor in such bank.

3 SEC. 204. Upon approval by the board of the esti-
4 mate and report of the committee, on the basis of such esti-
5 mate, or, if modified by the board, on the basis of such
6 modified estimate (but not later than sixty days after certifi-
7 cation of insolvency), the board shall pay to each depositor
8 whose outstanding deposit is \$1,000 or less not less than 50
9 per centum of such deposit, and to each depositor whose
10 outstanding deposit exceeds \$1,000, not less than 25 per
11 centum of such depositor's outstanding deposit, or \$500,
12 whichever is the greater. Within six months thereafter
13 the board shall pay to each depositor whose outstanding de-
14 posit is \$1,000 or less the difference between the amount of
15 his deposit and the amount paid under the next preceding
16 sentence. Within six months after payment has been made
17 under the preceding sentence all depositors the amount of
18 whose deposits are still unpaid shall be paid not less than 25
19 per centum of such deposits, and within six months there-
20 after the amounts of all depositors' deposits shall be paid in
21 full.

22 SEC. 205. The board or the liquidating agent appointed
23 by the board, if expressly granted such authority by the
24 board, shall have power to borrow money secured by the
25 assets of any insolvent national bank for the purpose of mak-

1 ing payments to depositors or other creditors. Funds bor-
 2 rowed under the preceding sentence shall be used only for
 3 the purpose of paying depositors and creditors of the bank
 4 against the assets of which the funds are borrowed.

5 SEC. 206. In the case of the insolvency of a member
 6 bank of the Federal reserve system which is not a national
 7 bank, the board shall request the receiver or liquidating agent
 8 of such bank to submit to the board a report and estimate
 9 containing the same matter as that required in the case of a
 10 report and estimate of the committee provided for in section
 11 203. Upon approval of such report and estimate the board
 12 shall proceed to pay to the receiver or liquidating agent
 13 amounts equal to the amounts which would have been paid
 14 to depositors under section 204 in the case of a national
 15 bank. The sums paid by the board under this section shall
 16 be paid at the times and in the amounts provided by section
 17 204, but such sums shall be paid to the receiver or liquidat-
 18 ing agent in trust for the depositors.

19 SEC. 207. If any member bank of the Federal reserve
 20 system fails to comply with the provisions of this title, or
 21 any regulation made by the board under this title, the
 22 Federal Reserve Board shall, after hearing, require such
 23 bank to surrender its stock in the Federal reserve bank
 24 and to forfeit all rights and privileges of membership. In
 25 any case of the failure of a national bank to comply with

1 the provisions of this title, such bank shall, in addition,
 2 forfeit all the rights, privileges, and franchises granted to
 3 it under the National Bank Act, and the Federal Reserve
 4 Act.

5 SEC. 208. The board is authorized and directed to
 6 make such regulations as may be necessary to carry out
 7 the provisions of this title.

8 SEC. 209. There are authorized to be appropriated
 9 such sums as may be necessary to carry out the provisions
 10 of this Act.

A BILL

To amend the National Banking Act and the Federal Reserve Act, and to provide a guaranty fund for depositors in national banks.

By Mr. STEAGALL

MARCH 7, 1932

Referred to the Committee on Banking and Currency
and ordered to be printed

Office Correspondence

FEDERAL RESERVE
BOARDDate Mar. 16, 1932

To Governor Meyer ✓
From Walter Wyatt, General Counsel.

Subject: The provisions of the Steagall Bill (H.R. 10241) re par clearance and immediate credit.

... 2-8495

In addition to providing for the guaranty of bank deposits (on which I understand that the Division of Analysis and Research and the Division of Bank Operations are preparing material) the Steagall Bill (H. R. 10241) on which hearings are now being held contains:

1. A provision (Section 6) abolishing the par clearance of checks and specifically authorizing the member banks to charge "exchange" at a rate not exceeding 10¢ per \$100 in remitting for checks drawn on themselves; and

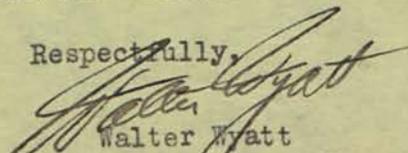
2. A provision (Section 7) requiring the Federal reserve banks to give their member banks immediate credit for checks sent by the member banks to the Federal reserve banks for collection.

For your information on these two points, I am handing you herewith the following documents:

1. A memorandum prepared in this office under date of October 5, 1926 (X-4919) containing a non-technical statement of the merits of par clearance; and

2. A memorandum containing excerpts from briefs filed in the Supreme Court of the United States by Honorable Newton D. Baker and Honorable John W. Davis in two of the most famous par clearance cases, both on the question of par clearance and on the question of giving immediate credit for uncollected checks.

Respectfully,


Walter Wyatt
General Counsel

Papers attached

SUMMARY OF THE PROVISIONS OF H.R. 10241.

The provisions of this bill divide themselves conveniently into three portions: (a) amendments to the National Banking Laws; (b) amendments to the Federal Reserve Act; and (c) provisions establishing a Federal Guaranty Fund for depositors in member banks of the Federal Reserve System.

AMENDMENTS TO NATIONAL BANKING LAWS.

The amendments to the National Banking Laws, which are contained in Section 1, 2, 3 and 4 of the bill, refer in all cases only to national banks which may be organized hereafter.

These amendments contain three important changes in the law:

(1) The authority for the organization of a national bank with a minimum capital of \$25,000 in places of not exceeding 3,000 inhabitants is eliminated from the law; (2) no national bank may be organized unless it has a surplus of not less than 10% of its capital stock, and (3) provisions for the double liability of shareholders of national banks are eliminated, except as to banks having branches.

Section 1 of the bill eliminates from Section 5138 of the Revised Statutes the provision that national banks may be organized in places of not exceeding 3,000 inhabitants with a minimum capital stock of \$25,000.

Section 2 of the bill amends Section 5138 of the Revised Statutes so as to provide that no national bank shall be organized except with an initial surplus equal to 10% of its capital stock,

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and provides a number of corresponding amendments to other provisions of the national banking laws in order to make them conform to this requirement. Thus, for this purpose:

Section 5168 (erroneously referred to as Section 5618) of the Revised Statutes, which requires the Comptroller of the Currency to examine into the condition of a national bank, and especially whether 50% of its capital stock has been paid in, in order to determine whether the bank is lawfully entitled to commence business, is amended to require the Comptroller to ascertain also whether 50% of the required initial surplus has been paid in.

The Act of November 7, 1918, as amended, providing for the consolidation of national banks, and for the consolidation of a State bank with a national bank, is amended to require that the consolidated institution in each such case shall have an initial surplus, as well as a capital stock, in the amount required for the organization of a national bank in the place in which it is located.

Section 5154 of the Revised Statutes, providing for the conversion of a State bank into a national bank, is amended to require that the converted institution have an initial surplus

not less than that required for the organization of a national bank in the place in which it is located.

Section 5140 of the Revised Statutes, requiring at least 50% of the capital stock of a national bank to be paid in before it is authorized to commence business and the remainder to be paid in in 10% monthly installments is amended to make similar requirements with regard to the required initial surplus.

Section 5141 of the Revised Statutes, which authorizes the sale of the stock of any shareholder who fails to pay any installment on his stock as required by law, is amended so as to give the same authority in the case of a failure to pay any installment of the initial surplus.

Section 5205 of the Revised Statutes, which provides for assessments upon stockholders of a national bank in case its capital stock is not paid up or in case of an impairment therein and for the appointment of a receiver when the deficiency is not made up within three months after notice, is amended to provide for such assessments where the initial surplus is not paid up and for the appointment of a receiver where the deficiency in initial surplus is not met within the three months' period. Apparently an impairment in initial surplus would not be grounds for such an assessment. The provision of Section 5205 authorizing the sale of the stock of a share-

holder who fails to pay such assessment against him would be omitted by this amendment, apparently by mistake.

Section 5143 of the Revised Statutes, which authorizes reductions in capital stock of national banks, is amended so as to include surplus in its provisions. While not clear, apparently all the present requirements for a reduction of capital, including two-thirds' vote of shareholders and approval of the Federal Reserve Board and of the Comptroller of the Currency, would be applicable as to every reduction in surplus.

Section 3 of the bill amends Section 5151 of the Revised Statutes and Section 23 of the Federal Reserve Act so as to eliminate the provision for the double liability of shareholders as to national banks hereafter organized, except as to any bank which operates or establishes a branch.

Section 4 of the bill provides that the provisions of Sections 1, 2 and 3 shall apply only to national banks organized after the date of the enactment of this Act.

AMENDMENTS TO THE FEDERAL RESERVE ACT.

Sections 5, 6 and 7 of the bill contain amendments to the Federal Reserve Act with regard to the distribution of earnings of Federal reserve banks, the charges which may be made by member banks for the collection or payment of checks and drafts, and the giving of immediate credit by Federal reserve banks for items received for collection.

Section 5 would amend the first paragraph of Section 7 of the Federal Reserve Act so as to provide that the net earnings of each Federal reserve bank shall be distributed as follows: After the payment to member banks of the 6% dividend now provided for and the payment of 10% of the net earnings to surplus, one-half of the remainder of the net earnings shall be paid to the Federal Guaranty Fund for depositors of member banks, (provided for in later sections of this bill) and the remaining one-half shall be paid to the member banks in proportion to the amount of their capital stock. The payment of the franchise tax by Federal reserve banks to the United States would thus be eliminated. The second paragraph of Section 7, with regard to the manner in which funds paid to the United States either as a franchise tax or upon dissolution of the Federal reserve bank are to be used, is amended to make the necessary corresponding changes.

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Section 6 would amend the first paragraph of Section 13 of the Federal Reserve Act with regard to the charges which may be made by banks for collection or payment of checks and drafts so as to eliminate the clause "but no such charges shall be made against the Federal reserve banks" and the provision for the determination and regulation of such charges by the Federal Reserve Board; thus authorizing a bank to make a reasonable charge for collection or payment of checks and drafts, but not exceeding 10¢ per \$100 or fraction thereof on the total of checks and drafts received at any one time, whether such checks and drafts are presented by or through a Federal reserve bank or otherwise.

Section 7 would also amend Section 13 of the Federal Reserve Act by adding at the end of the first paragraph a new paragraph requiring a Federal reserve bank upon application of "a sending bank" to give immediate credit for checks and drafts received from such bank for collection and authorizing the Federal reserve bank to charge interest on the amount of the credit at the current rediscount rate pending the collection of the item or, with the approval of the Federal Reserve Board, to establish a time schedule for this purpose.

PROVISIONS FOR GUARANTY FUND FOR DEPOSITORS OF MEMBER BANKS.

The remaining sections of the bill, designated Sections 201 to 209, and comprising what is known as Title II of the bill, provide for the establishment of a Federal Bank Liquidating Board and for the guaranty of the deposits of member banks.

Section 201 of the bill establishes a Federal Bank Liquidating Board consisting of the Secretary of the Treasury, the Comptroller of the Currency, and three citizens of the United States appointed by the President by and with the advice and consent of the Senate. The appointive members, not more than one of whom shall be of the same political party as the President, are to hold office for four years and each is to receive a salary of \$10,000 per annum. The appointive members are ineligible during the time they are in office, and for one year thereafter, to hold office or employment in any member bank or in or on the Federal Reserve Board. The Liquidating Board shall elect its own chairman and other officers and may employ and fix the compensation of its officers and employees, but the compensation is not to exceed \$10,000 per annum in any case.

Section 202 establishes a Federal guaranty fund for depositors in member banks of the Federal reserve system. This fund is to be created by payments from three sources: (a) The entire amount heretofore paid to the United States as a franchise tax by the Federal reserve banks shall be paid, presumably by the United States,

to the guaranty fund; (b) The Federal reserve banks are to pay to the fund \$150,000,000, the amount required of each to be determined pro rata according to the amount of its surplus on December 31, 1931; and (c) The board shall require the member banks to pay to the fund (1) such an amount as it may fix, not exceeding \$130,000,000, the amount required of each member bank to be determined pro rata according to its average deposits, other than time deposits, during the preceding calendar year, and (2) such an amount as the board may fix not to exceed \$70,000,000, pro rated among such banks according to their average time deposits during the preceding calendar year. At any time after one year subsequent to the payment of the above amounts, the board may, if in its judgment the amount of the fund is inadequate, require the member banks to pay annually to the fund not more than \$100,000,000 pro rated among them according to their net earnings for the preceding calendar year. All sums payable either by a Federal reserve bank or by a member bank are subject to the call of the Liquidating Board; and, if in its judgment at any time the amount in the fund is in excess of the amount adequate for the purposes of the law, the board shall make a refund to each Federal reserve bank and to each national bank, the amount of the refund to be pro rated according to the amount of their contributions. Apparently State member banks would not share in any return of contributions.

Sums in the guaranty fund may be invested by the board in interest bearing obligations of the United States or deposited in member banks without interest.

Section 203 provides that whenever a national bank is insolvent, the Comptroller of the Currency shall so certify to the Liquidating Board, which shall proceed to wind up the bank in accordance with the law. Within thirty days after the receipt of the certificate of insolvency by the board, a committee consisting of one person appointed by the board, one appointed by the owners of a majority of the stock of the bank and one appointed by the depositors of more than 50 per cent of the outstanding deposits of the bank shall estimate the value of the assets and the amount of the liabilities of the bank and make a statement of the amount of the outstanding deposit of each depositor.

Section 204 provides that, on the basis of this estimate, as modified by the board, and not less than sixty days after the certification of insolvency, the board shall pay to each depositor whose outstanding deposit is not more than \$1,000 not less than fifty per cent thereof, and to each other depositor not less than twenty-five per cent of his outstanding deposit, or \$500, whichever is greater. Within six months after such payment the board is to pay each depositor of the former class the remaining amount due him (and it is apparently the intention to provide that other depositors shall,

within this six months' period, be paid an additional twenty-five per cent of their deposits, but no such provision is contained in the bill.) Within the next six months period an additional twenty-five per cent shall be paid to all depositors not yet paid and within six months thereafter full payment shall be made to all depositors.

Section 205 provides that the board, or a liquidating agent duly authorized by the board, may borrow money on the security of the assets of any insolvent national bank for the purpose of paying its depositors and creditors.

Section 206 provides that in case of insolvency of a State member bank, the board shall request its receiver or liquidating agent to submit a report and estimate such as that required of the Committee in the case of a national bank; and the board upon approval of such report and estimate shall pay the receiver or liquidating agent in trust for the depositors the same amounts, and at the same times, as in the case of national banks.

Section 207 makes it mandatory upon the Federal Reserve Board, after hearing, to forfeit the membership of any member bank failing to comply with the requirements of the bill with respect to the Guaranty Fund or any regulation of the Liquidating Board; and a national bank failing to comply with such provisions of the bill shall, in addition, forfeit all rights and franchises granted to it by the law (apparently without any court proceeding, but upon the basis of the hearing conducted by the Federal Reserve Board.)

Section 208 authorizes the Liquidating Board to make regulations necessary to carry out the provisions with respect to the Guaranty Fund.

Section 209 authorizes appropriations of such sums as may be necessary to carry out the provisions of this act.