OKlahoma

Oklahoma - Carbon copies of Deposit Guaranty Report

# DEPOSIT GUARANTY IN OKLAHOMA

Prepared by

Clark Warburton, Chief
Banking and Business Section
Division of Research and Statistics
Federal Deposit Insurance Corporation

Division of Research and Statistics
Federal Deposit Insurance Corporation
March 1958

TABLE OF CONTENTS

DEPOSIT GUARANTY IN OKLAHOMA


| | Page |
|---|---|
| Character of the guaranty legislation | 1 |
| Admission of banks | 2 |
| Deposits guaranteed | 3 |
| Assessments | 5 |
| Administration and custody of the fund | 7 |
| Indebtedness of guaranty fund | 8 |
| Method of paying depositors and of liquidating failed banks | 9 |
| Expenses of administration | 10 |
| Constitutionality of the deposit guaranty law | 11 |
| Decisions of the State courts | 12 |
| Decision of the United States Supreme Court | 13 |
| Supervision and regulation of guaranteed banks | 16 |
| Supervisory authority | 16 |
| Examination of banks for admission to guaranty | 17 |
| Supervisory powers of the Bank Commissioner | 18 |
| Supervisory experience | 21 |
| Statutory limitations on bank operations | 26 |
| Insufficiency and closing of the guaranty fund | 30 |
| Inadequacy of the guaranty fund | 30 |
| Suspension of payments from the fund | 31 |
| Repeal of the deposit guaranty law | 33 |
| Number, deposits, and failures of participating banks | 34 |
| Number and deposits of participating banks | 34 |
| Concentration of bank deposits | 34 |
| Number and deposits of failed banks | 38 |
| Comparison with failures in other States | 42 |
| Causes of bank failures | 44 |
| Procedures used in handling failed banks | 46 |
| Financial history of the guaranty fund | 49 |
| Sources and adequacy of information | 49 |
| Income, expenses, and indebtedness of the guaranty fund | 52 |
| Insured deposits and losses in failed banks, by years | 54 |
| Comparison of assessment receipts and losses in failed banks | 61 |
| Settlement of the affairs of the guaranty fund | 65 |
| Appraisal of the Oklahoma deposit guaranty system | 67 |
| The burden of assessments | 67 |
| High failure rate | 69 |
| Inadequate supervision | 70 |

LIST OF TABLES


| | | Page |
|---|---|---|
| 1. | Supervisory powers of bank commissioner, and of state banking board, in Oklahoma | 19-20 |
| 2. | Statutory limitations on bank operations in Oklahoma | 27-29 |
| 3. | Number of operating banks in Oklahoma participating and not participating in the deposit guaranty system, 1908-1922, by years | 35 |
| 4. | Deposits of operating banks in Oklahoma participating and not participating in the deposit guaranty system, 1908-1922, by years | 36 |
| 5. | Number and deposits of state banks in Oklahoma, November 10, 1910, and December 29, 1920 | 37 |
| 6. | Number and deposits of state banks in Oklahoma closed because of financial difficulties, February 14, 1908, to March 31, 1923, by years | 39 |
| 7. | Size distribution of failed banks in Oklahoma compared with average size distribution of operating state banks: period of operation of deposit guaranty system | 41 |
| 8. | Annual bank failure rates in Oklahoma, 1908-1922, compared with rates in contiguous states and in the United States | 43 |
| 9. | Receipts, expenditures and unpaid obligations of the Oklahoma depositors guaranty fund | 53 |
| 10. | Rates and amounts of assessment, cash balance, and warrants outstanding, Oklahoma depositors guaranty fund, by years | 55 |
| 11. | Insured deposits, and obligations to depositors of failed banks paid and unpaid, Oklahoma depositors guaranty fund, by years, 1908-1923 | 57 |
| 12. | Percentage of deposits insured, and percentage of insured deposits paid by guaranty fund and recovered from liquidation of assets, bank failures under the Oklahoma deposit insurance system, by years | 60 |
| 13. | Annual assessment receipts, liability for deposits in failed banks, and cumulative deficiency, Oklahoma depositors guaranty fund | 62 |
| 14. | Comparison of annual rates of assessment with rates required to meet deposit obligations in failed banks, Oklahoma depositors guaranty fund, by years, 1908-1923 | 64 |

# DEPOSIT GUARANTY IN OKLAHOMA

The Oklahoma law for the guaranty of deposits was approved December 17, 1907, at the first session of the Legislature after admission of Oklahoma into the Federal Union as a State. The law became effective February 14, 1908, and continued in full operation for 13 years. In November 1921, when the liabilities of the fund exceeded its receipts and further borrowing on warrants became impracticable, the law became inoperative with respect to protection of depositors in closed banks, but the legal liability of the fund for such protection and the liability of the banks for payment of assessments continued until the repeal of the law in 1923. The affairs of the fund were not fully settled until 1934.

Of the eight States which established deposit guaranty funds during the period, 1907-1917, Oklahoma was the first, and was regarded as a pioneer in the movement to provide safety for bank deposits through application of the insurance principle. When the Oklahoma law was enacted, forty years had elapsed since the State bank-obligation insurance systems of the nineteenth century had been in operation, and very little was known about their character or the success of their operations.

## CHARACTER OF THE GUARANTY LEGISLATION

When Oklahoma became a State in November 1907, incorporated banks operating in the former Oklahoma Territory, other than national banks, had been subject to examination and supervision by a Bank Commissioner, and private banks had been prohibited for a decade. Banks in the former Indian Territory, comprising the western part of the State,

operated as private banks or with charters obtained under the general incorporation law of Arkansas, which had been extended to the Indian Territory by Act of Congress. However, neither the private nor the incorporated banks were examined or supervised. In May 1908, about three months after the deposit guaranty legislation became effective, the banking laws of the State were codified, revised, and reenacted. A few minor changes in the deposit guaranty provisions were made at that time. More important revisions occurred in 1909, 1911, and 1913.

Admission of banks. Participation in the deposit guaranty plan was made compulsory for all banks operating under a State charter. At the time the deposit guaranty law was enacted 484 banks, excluding national banks, were operating in Oklahoma. Of these, 294 were located in the former Oklahoma Territory, and 190 in the former Indian Territory.[1/] Under a ruling of the attorney general the guaranty became effective immediately upon the levy of the first assessment, which was required to be made within 60 days after passage of the law.

The guaranty law in Oklahoma also provided that any national bank in the State might voluntarily come under the protection of the depositors' guaranty fund with the approval of the Bank Commissioner. The Attorney-General of the United States in July 1908 ruled that national banks could not legally participate in a State system of deposit guaranty.

---

1/ First Annual Report of the Bank Commissioner, 1908, p. v, and Linwood O. Neal, The History and Development of State Bank Supervision in Oklahoma (thesis in Rutgers University library).

Under the revised banking code of 1908 the deposit guaranty law was extended to trust companies. In 1911 trust companies thereafter organized were prohibited from doing a banking business, and the deposit guaranty law was amended to exclude from its provisions, after September 1 of that year, corporations doing a trust business. The latter change excluded only two institutions, holding about one percent of the aggregate deposits previously covered by the guaranty. One of these relinquished its trust company charter and became a State bank, thus coming back under the guaranty system, about eighteen months later; the other consolidated with a national bank in 1914. In 1919 trust companies were authorized to establish savings departments, with a segregation of capital and with the deposit guaranty law applying to the savings department.

Deposits guaranteed. Deposit guaranty in Oklahoma originally covered all deposits, the law providing that the State Banking Board should draw from the depositors' guaranty fund whatever amount, in addition to the cash which could be made immediately available in a failed bank, was necessary to meet the deposits of the bank. Under decisions of the State Banking Board, cashier's checks, certified checks, and drafts outstanding were not recognized as deposits. Application of the guaranty to secured deposits was excluded by decisions of the State Supreme Court referring to moneys belonging to counties and to school funds deposited in banks which became insolvent. In cases where the assets of a failed bank were insufficient to pay the general depositors, the court ruled that deposits of public funds were not entitled to protection by the depositors' guaranty fund, since the statute provided a specific system

for the protection of such deposits. The court also ruled that neither the owners of such deposits nor a surety company which had paid such a deposit was entitled to share in the assets of the institution until the guaranty fund had been repaid in full, because the law gave the State priority in such distribution on behalf of the guaranty fund.[1/]

In 1913 the law was amended to exclude from protection by the fund deposits otherwise secured, and deposits on which a greater rate of interest was paid than was authorized by the Bank Commissioner. Two years later, another amendment provided that surety companies paying a deposit of public funds for which they were liable in a failed bank were entitled to a pro rata share with the depositors' guaranty fund in the proceeds of the assets of such failed banks. This amendment, however, was declared void by the State Supreme Court.[2/] These decisions did not reduce the protection afforded school or other public funds, but prevented surety companies from recouping, out of the guaranty fund or the assets of a closed bank, any part of their losses in Oklahoma banks so long as the guaranty fund afforded protection to unsecured depositors but was not fully repaid from the proceeds of liquidation of the assets of the banks.[3/]

---

1/ Columbia Bank & Trust Co. v. United States Fidelity and Guaranty Co. (1912, 33 Okl. 535, 126 Pac. 556; Lovett et al., v. Lankford et al. (1914), 47 Okl. 12, 145 Pac. 767; and United States Fidelity & Guaranty Co. v. State et al. (1917), 67 Okl. 14, 168 Pac. 234.

2/ State ex rel. Short, Atty. Gen. v. Johnson et al. (1923) 90 Okl. 21, 215 Pac. 945. The ground on which this decision was made was a technicality, namely, that the preference right of the depositors' guaranty fund against the assets of a failed bank had been impaired, and that this was not expressed in the title of the amendatory act.

3/ After the guaranty fund, in November 1921, ceased to pay depositors, a Federal court decided that a surety company that had paid secured deposits in an Oklahoma bank that failed was entitled to share in the distribution of assets of the bank ratably with unsecured depositors, on the ground that with no payment from the guaranty fund, nor issuance of warrants on the fund, to the depositors the State had no preferred claim against the failed bank. Strain et al. v. United States Fidelity & Guaranty Co. Circuit Court of Appeals, Eighth Circuit (1923), 292 F. 694, affirmed by the United States Supreme Court, 264 U.S. 570, 68 L. Ed. 854. However, the State Supreme Court, in a later case, ruled that the unsecured depositors in a failed bank retained, until repeal of the law, a preference over other creditors in the distribution of assets of the bank. State ex rel. Walcott v. Zoll (1925), 240 Pac. 1035.

Assessments. The original deposit guaranty law in Oklahoma provided for an initial assessment of 1 percent of average daily deposits, excluding State funds properly secured, during the preceding year. In the 1908 revision of the law, deposits of the United States were also excluded. Annual assessments at the same rate were to be made on the growth of deposits.[1/] If the fund became depleted, it became the duty of the State Banking Board to levy a special assessment sufficient to restore the fund to 1 percent of average daily deposits.

In 1909, about a year after the initial assessment was levied, the assessment provisions were revised. The new law provided for the accumulation of a fund amounting to 5 percent of average daily deposits by an initial payment of 1 percent of average daily deposits, with a credit for the assessment previously paid, and subsequent annual payments of one-twentieth of 1 percent of average daily deposits. Each bank was also required, once a year, to make such additional payment as was necessary to adjust its total payments into the fund in proportion to any growth in its deposits. Special assessments for restoration of the fund when reduced by payments to depositors of closed banks were limited to 2 percent in any calendar year. All assessments were computed on the basis of average daily deposits during a period of a year, the deduction for United States and State funds being eliminated.

Further changes in assessments were made in 1913, following two years in which the total assessments averaged over 1 percent of deposits per year. The regular annual assessment was raised to one-fifth of 1 percent of average daily deposits, excluding secured deposits, and the maximum fund to be accumulated was reduced to 2 percent of deposits. Assessments for restoration of the fund, when reduced below 2 percent of average

---

1/ No provision was made for refund if the deposits of a bank decreased.

daily deposits, were limited to one-fifth of 1 percent in any year. Also, special assessments not exceeding one-fifth of 1 percent each year were expressly authorized during the following three years and forbidden thereafter. These provisions remained in force during the subsequent duration of the fund.

The 1913 amendment to the guaranty law also provided for the posting with the State Banking Board, by each bank, of State or local government obligations approved by the Board in an amount not less than 1 percent of average daily deposits, with a minimum of $500, as security for the payment of its liabilities to the fund.

A problem of collecting the assessment arose from the conversion of State banks to national banks. Under a State Supreme Court decision in 1915 a bank subject to the law of 1909 which had become a national bank was liable for the full 5 percent assessment, payable in accordance with the instalment payments imposed by that law. The court held that the State bank, though it had ceased to exist as a State corporation, did not thereby escape liabilities incurred by it during its continuance as a State bank, and that the effect of surrendering its charter and organizing as a national bank was neither to mature nor discharge the deferred payments of the assessment.[1/] However, this decision was reversed four years later, when the Court decided that the bank was liable only for such payments as matured or were payable while it was doing business as a State bank.[2/]

---

1/ State ex rel. West, Atty. Gen. v. Farmers' National Bank of Cushing (1915) 47 Okl. 667, 150 Pac. 212.

2/ Citizens National Bank of Broken Arrow v. State ex rel. Freeling, Atty. Gen. (1919) 76 Okl. 94, 184 Pac. 63.

Banks organized subsequent to the enactment of the deposit guaranty law, excluding those formed by reorganization or consolidation of banks subject to the law, were required to pay into the fund at the time of opening for business 3 percent of the amount of their capital stock. Until 1913 this payment was a credit fund, subject to adjustment at the end of one year to the rate on average daily deposits levied on other banks.

Administration and custody of the fund. Supervision and management of the depositors' guaranty fund in Oklahoma were placed in the State Banking Board, composed of the Governor, Lieutenant Governor, the President of the Board of Agriculture, State Treasurer, and State Auditor. This Board was empowered to adopt all suitable rules and regulations not inconsistent with law for the management and administration of the fund. In 1911 the composition of the State Banking Board was altered to consist of the Governor and two other members appointed by the Governor, with the approval of the Senate, to be remunerated on a per diem plus expenses basis. The Bank Commissioner was made ex officio secretary of the State Banking Board.

Two years later the composition of the State Banking Board was again changed. After that date the Board was composed of the Bank Commissioner as ex officio chairman and three members appointed by the Governor with the approval of the Senate. The Commissioner was selected by the Governor from a panel of three persons, and the other members from a panel of nine persons, recommended by the executive council of the State Bankers Association, an association consisting of a representative selected by the board of directors of each bank. After two years' experience with this method of appointment, the recommendation of persons for Commissioner by the State Bankers Association was dropped, and the

Commissioner was appointed by the Governor.

The original law contained no provision regarding investment of the guaranty fund, but in 1909 provision was made for the investment of 75 percent of the guaranty fund in State warrants or such other securities as were specified for State funds. Two years later, after a large part of the fund kept in cash had been tied up by the failure of the bank in which it was deposited, the law was amended to provide for the redeposit of the entire fund in the respective banks, according to the amounts of their assessments, the banks issuing to the Bank Commissioner certificates of deposit bearing 4 percent interest. In 1913 the law was again amended to provide for the payment of the assessment in the form of cashier's checks to be held by the State Banking Board until it was necessary to collect them. Such cashiers' checks were to bear no interest. The requirement of deposit of securities as surety for the payment of assessments, adopted at this time, has been mentioned above.

Indebtedness of guaranty fund. The original law contained no provision against the contingency that the assessments collected might be inadequate to pay all of the deposits in closed banks, other than the provision for such additional assessments as might be needed. In 1909, when a maximum was placed upon the special assessments which could be levied in any one year, the State Banking Board was authorized, in the event that the assessments were insufficient to meet the claims of depositors in failed banks, to issue certificates of indebtedness bearing 6 percent interest to the depositors. Such certificates were to be consecutively numbered and to be paid by the State Banking Board as soon as possible in the order in which they had been issued.

The foregoing provisions were in effect until 1913, when they were replaced by a method of borrowing designed to provide immediate cash with which the guaranty fund could pay the depositors of failed banks. The State Banking Board was authorized to issue "Depositors' Guaranty Fund Warrants" of the State of Oklahoma, bearing 6 percent interest, which could be disposed of, at not less than par value, in such manner as the Board saw fit to facilitate the liquidation of failed banks. These warrants were given a first lien upon future receipts of the guaranty fund from assessments or from the proceeds of liquidation of failed banks, and were to be retired in order of issue. The warrants were made nontaxable; and were authorized as investments of trust funds and of sinking funds of the State and local governments, and as collateral required to be deposited for the security of public funds. Any trust company, building and loan association, or insurance company was authorized to purchase the warrants to the extent of its capital and surplus. In 1915 the investment of a bank in such warrants was limited to its surplus and 10 percent of its capital stock. When sale of the warrants became difficult, the practice was followed of exchanging them, with the permission of the individual banks, for other collateral posted by the banks as security for the payment of assessments. The collateral was then sold and the proceeds used by the guaranty fund in meeting its obligations.

Method of paying depositors and of liquidating failed banks. Depositors in a failed bank were to be paid by the State Banking Board in cash when the Bank Commissioner took possession of the bank. From 1909 to 1913, as has been indicated, the Board issued certificates of indebtedness to the depositors if the amount in the fund was insufficient. After 1913, the Board was authorized to sell warrants and use the proceeds therefrom to make immediate payment to the depositors.

The State was given a first lien, for the benefit of the depositors' guaranty fund, upon the assets of any failed bank, including the personal liabilities of stockholders, officers, directors or other persons to the bank. In 1909 an amendment to the law provided that the funds realized by the Bank Commissioner from the assets of a failed bank should first be applied to the expenses of liquidation, then to payment to the depositors' guaranty fund of all money paid by that fund to depositors of the bank concerned, then to the refunding of any emergency assessments levied upon the guaranteed banks.

The liquidation of failed banks was placed in the hands of the Bank Commissioner. In practice, with the approval of the State Banking Board, most of the failed banks were liquidated through sale of their assets to another bank or to a newly organized successor. In such cases a payment was made from the guaranty fund sufficient to enable assumption of the deposits, or the total liabilities, of the closed bank. In many cases, the guaranty fund assumed an additional contingent liability if the assets taken over should yield upon collection less than their estimated value.

Expenses of administration. Under the original law expenses incurred by the State Banking Board in administering the depositors' guaranty fund were paid from the deposit guaranty fund. In the 1908 revision of the law these expenses, and the Bank Commissioner's salary and other expenses of his office were paid from the proceeds of fees levied upon the banks for each examination made. However, in 1909 the salaries of the Commissioner and of his assistants, and in 1913 the expenses of the State Banking Board the members of which served without compensation, were made payable from the general revenue fund of the State.

In 1917 all expenses of the Banking Department became payable from the general revenue fund, with all fees and other charges collected by the Commissioner to be paid into the general revenue fund.

## CONSTITUTIONALITY OF THE DEPOSIT GUARANTY LAW

Bankers objected to the deposit guaranty law in Oklahoma, and a test of the constitutionality of the law was made by the Noble State Bank. This bank asked the district court of Logan County for an injunction restraining the levy of the first assessment by the State Banking Board.

The Noble State Bank contended that the guaranty law was in conflict with several sections of the Constitution of the State of Oklahoma, for the following reasons:[1/]

1. That the law deprived the bank of the enjoyment of the gains of its own industry for the benefit of depositors of other banks in which the plaintiff had no interest.

2. That the law deprived the bank of its property without due process of law.

3. That the law violated the contract between the bank and the State of Oklahoma, evidenced by its charter, patent, and certificate of authority.

4. That the property of the bank was taken for private use without compensation and against the consent of the bank.

5. That, if it be held that the property was taken for public use, then it was taken without compensation and not in accordance with the form prescribed.

6. That the law embraced more than one subject.

---

1/ It was claimed that the law violated the following sections of the State Constitution: (1) Sec. 2, Art. 2; (2) Sec. 7, Art. 2; (3) Sec. 15, Art. 2; (4) Sec. 23, Art. 2; (5) Sec. 24, Art. 2; (6) Sec. 57, Art. 5; (7) Sec. 8, Art. 10; (8) Sec. 9, Art. 10; (9) Sec. 14, Art. 10; and (10) Sec. 1, Art. 14.

7. That, if the law be construed as levying a tax, this tax was assessed upon an arbitrary basis without regard to the fair cash value of the property assessed.

8. That, if the law be construed as levying a tax, this tax exceeded the maximum permitted.

9. That, if the law be construed as levying a tax, this tax was levied for private purposes rather than public use.

10. That the deposit guaranty law did not provide for the protection of individual stockholders in the bank.

The Noble State Bank also contended that the depositors' guaranty fund law violated the Constitution of the United States: (1) by impairing the obligation of the contract between the bank and the State of Oklahoma as evidenced by its articles of incorporation, patent, and certificate of authority; and (2) by depriving the bank of its property without due process of the law, denying to it equal protection of the law.[1/]

Decisions of the State courts. The district court of Logan County refused to grant the injunction requested by the Noble State Bank. The bank appealed the case to the Oklahoma Supreme Court, which upheld the decision of the lower court.

The State Supreme Court, in a lengthy opinion, maintained the point of view illustrated by the following quotation:[2/]

---

1/ It was claimed that the law violated the following sections of the Constitution of the United States: (1) Sec. 10, Art. 1; (2) Fourteenth Amendment.

2/ Supreme Court of Oklahoma, Noble State Bank v. Haskell et al., September 11, 1908, 22 Okl. 48, 97 Pac. 590.

> Banks are chartered by the state, not with the paramount view of enabling the stockholders to make investments and derive profits therefrom, but to meet a public necessity. The stockholders, having made investments therein, should be protected, but private interest must always be subordinated by the state, in the reasonable exercise of its police power, to the public welfare or good. With the view that the depositor, as well as the stockholder, and the general public with an incidental interest therein, may be protected, banking is regulated, and limitations, restraints, and requirements are imposed. The imposition of double liability upon the stockholders; the requirement of reserve funds; stipulations as to what capital stock cannot be invested in; prescribed qualifications of the directors--all these having been tried, in the judgment of the Legislature the further restriction that active officers should not borrow from the bank without incurring pains and penalties was deemed salutary. In addition to further and more completely protect the depositors, the depositors' guaranty fund is created, the Legislature acting pursuant to the mandatory declaration of the Constitution ...

Decision of the United States Supreme Court. The Noble State Bank was dissatisfied with the decision of the Oklahoma Supreme Court and appealed to the United States Supreme Court. While the case was pending, similar cases came before the United States Supreme Court regarding deposit guaranty laws in Nebraska and Kansas, on appeals from decisions of the Circuit Courts of the United States for the Districts of Nebraska and Kansas, respectively.

The United States Supreme Court heard the arguments regarding the three cases at its fall term in 1910. On January 3, 1911, the Court rendered its decision on the Oklahoma case, which was also applied to the Nebraska and Kansas cases.[1/]

The principal point in the cases considered by the United States Supreme Court was the contention that the deposit guaranty laws took the private property of one bank for the private use of another bank without compensation. The opinion of the court, by Justice Holmes, admitted

---

1/ Noble State Bank v. Haskell, (1911) 219 U.S. 104, 55 L. Ed. 112.

that this might be the case, but pointed out that such transfers of property are constitutional if there is sufficient purpose and necessity.

> In the first place it is established by a series of cases that an ulterior public advantage may justify a comparatively insignificant taking of private property for what, in its immediate purpose, is a private use... And in the next, it would seem that there may be other cases beside the everyday one of taxation, in which the share of each party in the benefit of a scheme of mutual protection is sufficient compensation for the correlative burden that it is compelled to assume... At least, if we have a case within the reasonable exercise of the police power as above explained, no more need be said. 1/

The opinion then discussed the application of police power to the guaranty of bank deposits as follows:

> It may be said in a general way that the police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare. Among matters of that sort probably few would doubt that both usage and preponderant opinion give their sanction to enforcing the primary conditions of successful commerce. One of those conditions at the present time is the possibility of payment by checks drawn against bank deposits, to such an extent do checks replace currency in daily business. If then the legislature of the State thinks that the public welfare requires the measure under consideration, analogy and principle are in favor of the power to enact it. Even the primary object of the required assessment is not a private benefit as it was in the cases above cited of a ditch for irrigation or a railway to a mine, but it is to make the currency of checks secure, and by the same stroke to make safe the almost compulsory resort of depositors to banks as the only available means for keeping money on hand. The priority of claim given to depositors is incidental to the same object, and is justified in the same way. ... The power to compel, beforehand, co-operation, and thus, it is believed, to make a failure unlikely and a general panic almost impossible, must be recognized, if government is to do its proper work, unless we can say that the means have no reasonable relation to the end... So far is that from being the case that the device is a familiar one. It was adopted by some states the better part of a century ago, and seems never to have been questioned until now. 2/

---

1/ Op.cit., 55 L. Ed. 116.
2/ Ibid., pp. 116-17.

The conclusion of the court was stated in the summary of its opinion as follows:

> The levy and collection, under a State statute, from every bank existing under the State laws, of an assessment based upon average daily deposits, for the purpose of creating a depositors' guaranty fund to secure the full repayment of deposits in case any such bank becomes insolvent, is a valid exercise of the police power, and cannot be regarded as depriving a solvent bank of its liberty or property without due process of law... The police power of a State extends to the regulation of the banking business, and even to its prohibition, except on such conditions as the State may prescribe. 1/

This decision is notable not only because it affirmed the constitutionality of the deposit guaranty legislation, but also because of the grounds on which that affirmation was made. The decision is based on the ground that safety of payments made by check is one of the primary conditions of successful commerce, that the police power covers any regulations necessary to make the currency of checks secure, and to make safe the money kept on hand by depositors in the form of bank deposits. The decision thus rests on the idea that the purpose of the legislation is the protection of circulating medium.

The problem of the constitutionality of a deposit guaranty or insurance plan designed primarily to protect the invested savings of individuals was not considered by the Supreme Court in this case. The Court neither asserted nor implied that assessments upon one bank for the purpose of protecting interest-bearing deposits, or other deposits not subject to check, are, or are not, constitutional, except as such protection may be incidental to the protection of deposits which are part of the circulating medium.

---

1/ Ibid., pp. 112-13.

## SUPERVISION AND REGULATION OF GUARANTEED BANKS

Supervisory authority. Under the original deposit guaranty law and the revised banking code of May 1908, the State Banking Board was given no duties other than administration of the deposit guaranty law. The Bank Commissioner was charged with the following duties: certification of compliance with the law by persons organizing new banks and authorization of such banks to open for business, examination of all State-chartered banks and trust companies and of national banks if they should apply for the benefits of deposit guaranty, reporting of violations of law to enforcement authorities, handling of banks closed because of insolvency or for violations of law, and other duties, such as obtaining reports of condition, associated with bank supervision. In 1913, the State Banking Board was required to approve, in its discretion, the opening of any new bank, and to see that each operating bank was examined at least twice each year.

Under the 1908 law the Bank Commissioner was appointed by the Governor, with the advice and consent of the Senate, for a term of four years. The Bank Commissioner must have had, prior to appointment, at least three years' practical experience as a banker, but at the time of appointment could not be an officer or employee of any bank or any person interested as an owner or stockholder of a bank. In 1913, when the Bank Commissioner was made ex officio chairman of the State Banking Board and the appointment was required to be made from a panel of three persons named by the State Bankers Association, the practical banking experience required of the person appointed was raised to five years. The last of these provisions was retained when, two years later, the requirement of selection from a panel was dropped.

Examination of banks for admission to guaranty. The first task of the State Banking Board and the Bank Commissioner after enactment of the deposit guaranty law was to examine all banks in the State, other than national banks, before the deposit guaranty law should become effective. The Commissioner did not have sufficient examiners to make these examinations, particularly in view of the fact that the banks in the former Indian Territory had not previously been examined. A special force of 31 examiners selected from among bankers in the State was employed and 513 examinations were made within a period of six weeks.

The Bank Commissioner, in his report for 1908, stated that those banks whose condition or past record did not justify a continuation of business were ordered to discontinue receiving deposits and to liquidate, and that they did so. According to a report prepared by a later Commissioner, 24 banks failed to meet the standards required for continuance in business and admission to guaranty, and were forced to liquidate during the first year of the fund's operation, and 30 banks were reorganized under new charters to meet the requirements. 1/ However, the Commissioner also stated:

> On account of the unfavorable financial situation at this time it was extremely difficult in many instances to meet every requirement immediately. If the bank was solvent and showed a disposition to comply with the law as promptly as possible the department endeavored to be fair and give them an opportunity...
>
> While a large number of banks were technically not in harmony with every provision of the banking laws their general condition was such that the department did not feel justified in closing them and upon their promise to correct the objectionable features of their business they were allowed to continue in operation. 2/

---

1/ Linwood O. Neal, The History and Development of State Bank Supervision in Oklahoma, (1942), pp. 64 and 65.

2/ First Annual Report of the Bank Commissioner, 1908, pp. viii-ix.

The Bank Commissioner in office four years later held a less optimistic view of the condition of the banks admitted to the guaranty system.

> The only near fatal mistake made in our Guaranty Law was that after its passage, the immediate taking in under the guaranty system of all banks without first the most careful and rigid examination of banks, men and methods. They should have been tried out under the most thorough test and the incompetent and dishonest should have been eliminated from our financial institutions, and none but the strongest and best men permitted to engage in banking. 1/

Thomas Bruce Robb, who made a detailed study of the Oklahoma situation after the guaranty law had been in operation, commented in similar fashion on the Commissioner's statement in the 1908 report:

> But this description of the condition of the banks was far too roseate. It is now well known that a goodly number of banks, especially on the Indian Territory side, were positively insolvent. 2/

Supervisory powers of the Bank Commissioner. The supervisory powers given the Bank Commissioner related chiefly to examinations, the capital position of the banks, and conditions under which a bank could be closed. The Commissioner also had some powers relating to the opening of new banks and to the quality of bank management. Part of the Commissioner's powers, particularly with respect to the handling of closed banks and after 1913 the opening of new banks, were shared with or exercised under the control of the State Banking Board. The powers of the Commissioner and of the Board are summarized in Table 1.

---

1/ Third Biennial Report of the Bank Commissioner, 1912.
2/ T. Bruce Robb, The Guaranty of Bank Deposits, p. 41.

Table 1. SUPERVISORY POWERS OF BANK COMMISSIONER, AND OF STATE BANKING BOARD, IN OKLAHOMA

| Item | Powers 1/ |
|---|---|
| Opening of new banks | Commissioner to approve incorporators and to issue certificate of authority to transact a banking business after specified requirements for incorporation have been filed, capital stock paid-up, and bank examined. 2/ In 1913, amended to give full discretionary power to Commissioner and Banking Board to approve issue of certificate to engage in the banking business. |
| Examinations and reports of condition: | |
| Frequency of examinations | At least twice a year and whenever deemed advisable by Commissioner. 3/ |
| Scope of examinations | A full and careful examination. |
| Reports of condition | Commissioner to prescribe form and set dates, at least four times a year; and to require additional reports whenever deemed necessary to obtain full and complete knowledge of bank's condition. |
| Bank management: | |
| Removal of undesirable assets or discontinuance of undesirable practices | No specific provision. |
| Impairment or deficiency of capital | Commissioner to require impairment of capital below legal minimum to be made good within 60 days; in 1909, amended to 30 days, and to require increased capital and surplus if below minimum ratio to deposits. 4/ |
| Removal of bank officers, directors, or employees | Commissioner may order removal by Board of Directors of any officer found upon examination to be dishonest, reckless, or incompetent. |
| Taking possession or closing a bank | Commissioner authorized to take possession and liquidate a bank:<br>If found insolvent, by court or Commissioner's examination, with following conditions defined as insolvency: when cash market value of assets insufficient to meet liabilities; when unable to pay creditors in usual and customary manner; when legal reserve not made good as required by law. |

Table 1. SUPERVISORY POWERS OF BANK COMMISSIONER, AND OF STATE BANKING BOARD, IN OKLAHOMA - continued

| Item | Powers |
|---|---|
| Taking possession or closing a bank - continued | If officers refuse to submit bank to examination or be examined under oath.<br>If officers or directors violate any provision of the act.<br>If affairs placed by bank under control of Commissioner. |
| Handling of closed banks: | |
| Return to owners | Commissioner may authorize reopening of bank if solvency restored by stockholders and any indebtedness to Guaranty Fund repaid. |
| Liquidation | Unless returned to owners, closed bank to be liquidated by Commissioner. |
| Sale of assets or capital stock | Commissioner may sell assets upon order of District Court or judge thereof. |

1/ As of May 26, 1908, with subsequent amendments during the period of operation of the deposit guaranty system. For the most part the act of May 26, 1908, was a codification of the previous banking statutes, including the territorial banking law and the deposit guaranty law enacted December 17, 1907.
2/ The requirement that the incorporators be approved by the Bank Commissioner was inserted by the Act of May 26, 1908.
3/ In 1921, examinations by Federal Reserve System of State banks members of the Federal Reserve System to be acceptable, at the discretion of State banking authorities, in lieu of State examinations.
4/ See Table 2 for minimum capital stock, and after 1909 maximum ratio of deposits to capital and surplus.

Supervisory experience. During the early years of the deposit guaranty system supervision of State banks in Oklahoma was handicapped by the small size of the examining staff and frequent changes of personnel. Each of the first three Bank Commissioners held the office less, or only a little more, than a year. Lists of examiners in the second and third biennial reports of the Commissioner show only one or two names appearing in the preceding report. However, after 1911 there was more stability, with one person holding the Commissioner's office for eight years. The improvement in the quality of supervision was described by T. Bruce Robb as follows:

> The reconstruction of the state banking department has produced most salutory results. It will be recalled that the state banking board is now appointed by the governor from a list nominated by the state bankers themselves. This has completely divorced the board from politics. Mr. J. B. Lankford, who served as bank commissioner from 1911 to 1919, organized a most efficient bank supervision. This department is indefatigable in ferreting out incompetent and reckless banking. 1/

The problem of supervision during the early years of the guaranty system was also made very difficult by an extremely rapid growth in the number of banks. At a call date two weeks after the law became effective 470 State banks were in operation. During the next two years approximately two hundred banks commenced operations under State charters, about half of which had formerly operated under national charters. During the latter part of 1910 the Commissioner, who had taken office on June 1, attempted to use his power to refuse certificates of authorization to open for business if conditions in the various communities did not justify additional

---

1/ Robb, The Guaranty of Bank Deposits, p. 105.

banks, but found that under the law and a decision of the State Supreme Court he was required to issue the certificates when the incorporators had complied with the specific requirements of the law. He recommended that the Commissioner and State Banking Board be given power to regulate the number of banks organized in any town or city, and that no person be permitted to engage in the banking business without a license from the Board granted only after a thorough investigation of the character and ability of the applicant. 1/ In 1913, the law was amended to require the approval of the Commissioner and of the State Banking Board before issuance of a charter for the organization of a bank. No specifications were given in the law for the guidance of the Board in exercising its discretion in passing on applications, but the Bank Commissioner, in his report for 1914, laid down the following principles:

> Under the present system ... no charter is issued unless positive proof be furnished that the banking facilities of the community are not adequate to the public needs. There must be convincing evidence at hand that the enterprise will be an assured success. Those applying for a charter must be men in every way worthy of confidence and the proposed officers must be of the highest honesty and integrity, having ample banking experience. 2/

The efforts of the Commissioner, and the change in the law, successfully checked the high rate of formation of new banks, for the largest number of State banks reporting at any call date was 695 in January 1911.

---

1/ Second Biennial Report of the Bank Commissioner, 1910, pp. xii-xiii.

2/ Fourth Biennial Report of the Bank Commissioner, January 1, 1915, p. vii.

The Bank Commissioner's powers to close a bank for insolvency or violation of law were ample. Except under the circumstance of a general decline in values and business depression, these powers, rigorously used, were adequate to result in the closing of most banks that were badly managed or in poor condition before their condition became sufficiently acute to involve the guaranty fund in serious loss. However, closing of a bank is a drastic action that may have a severe impact on the community, and in practice bank supervisory authorities find it difficult to take such action in the early stages of the deterioration of a bank's condition. In Oklahoma, action to close insolvent banks was also delayed because of hesitancy in making large enough assessments to enable payment of depositors by the guaranty fund. Toward the end of 1912, Bank Commissioner Lankford reported to the Governor:

> Within the first few months of my administration the fact was disclosed that the department had many insolvent banks on hand; some of which it was imperative to take charge of and liquidate at once; others should have been liquidated soon thereafter, but as our Guaranty Law provides that all depositors shall be paid at once, in full, there being no funds on hand, and our banks as a whole being unable to stand additional excessive and heavy assessments, the Department was prevented from handling them in the proper manner at the time. 1/

The powers of the Bank Commissioner to take action in the case of incompetent or improper management of a bank, without closing it, also appear to have been reasonably adequate, particularly after 1913, when amendments to the law provided penalties for various types of illegal acts of bank officials and employees. These penalties, together with the Commissioner's power to remove from office any bank official whom he found

---

1/ Third Biennial Report of the Bank Commissioner, Dec. 1912, p. v.

to be dishonest, reckless, or incompetent, made it possible to raise the standard of bank management throughout the State. At the beginning of 1915, Commissioner Lankford reported that he had displaced over 125 incompetent and unscrupulous managing officers of banks. However, he also reported that of 27 prosecutions of bank officers for violation of the criminal statutes, only seven convictions had been secured, in part because of insufficient legal assistance.[1]

The quality and adequacy of bank examinations appear also to have been hampered by the limitation of available funds and salaries permitted. The annual cost of the Bank Commissioner's office, including expenses of the State Banking Board, during the time the law was in effect, was approximately $50,000 to $70,000, or about $80 to $140 per participating bank.[2] From 1913 to the repeal of the deposit guaranty law in 1923 the salary of the Bank Commissioner was fixed by law at $4,000, and those of his 12 specifically authorized assistants at $2,000 each.[3] Of these assistants, one was designated by law as Assistant Bank Commissioner, and one as building and loan auditor. The remaining ten constituted the bank examining force.[4] Since the number of operating

---

1/ Fourth Biennial Report of the Bank Commissioner, Jan. 1915, pp. viii-ix.

2/ From 1909 to 1916, when part of the expenses of the Commissioner's offices was met from the proceeds of examination fees, appropriations for the Banking Department ranged from $37,000 to $50,000; from 1917 to 1922, when the examination fees were paid into the general revenue fund, the appropriations for the Department ranged from $64,000 to $71,000.

3/ In January 1919, the Commissioner recommended a minimum salary for examiners of $2,500, with an annual increase of $200 for five years. Sixth Biennial Report of the Bank Commissioner, p. 4.

4/ The reports of the Bank Commissioner state that in 1912 the Department had one special and eight regular examiners; in 1914 ten examiners. In some of the later years the appropriation bill provided for only eight examiners.

State banks was about six hundred, and two examinations per year were required, each examiner was apparently required to make about 120 bank examinations per year, too large a number to permit as thorough examinations as would have been desirable. 1/

Bank Commissioner Lankford unsuccessfully urged that employees of the Banking Department be given civil service status. In his last biennial report he stated:

> Six years ago, and at each successive meeting of the Legislature thereafter, this office has in the strongest possible terms recommended that this Department be placed under civil service rule, for ... a Banking Department is easily destroyed and when once under a cloud it is difficult to regain confidence in the public mind. 2/

The validity of this observation was borne out by subsequent events. After 1919, the quality of bank supervision in Oklahoma deteriorated. No further reports of the Bank Commissioner were published, except for one at the end of 1920 containing statements of the individual banks but no text. The Bank Commissioner at that time was indicted a year later for accepting a bribe from a bank in bad condition, and after leaving the State for two years, was convicted. 2/ A few years later the author of a thesis on the guaranty of bank deposits at the University of Oklahoma commented as follows on this Commissioner's handling of his office:

---

1/ The Federal Deposit Insurance Corporation in 1941 had two examiners and two assistant examiners in Oklahoma to make one examination per year of approximately 160 banks, or an average of 40 examinations per year per member of the examining force. Comparison of the examining task in 1941 with that during the period of operation of the guaranty fund does not appear to be invalidated by differences in the size distribution of the banks examined. From 1916 to the repeal of the guaranty law, the average proportion of banks in the size groups above $500,000 of deposits was nearly the same as the proportion in those groups of banks examined in 1941 by the Corporation.

2/ Thornton Cooke, "The Collapse of Bank-Deposit Guaranty in Oklahoma and Its Position in Other States," Quarterly Journal of Economics, XXXVIII (November 1923).

> Mal-administration of the banking department of no state in the Union has been more odious or harmful than that by Fred Dennis of Oklahoma. 1/

Other appointees to the Bank Commissioner's office, up to the time of repeal of the deposit guaranty law, occupied the position only a short time, and were unable to restore the office to its former effectiveness.

One feature of the Oklahoma banking code may be mentioned here because of its potentialities for reducing the risk to and losses falling upon the deposit guaranty fund, though its use does not appear to have had such an effect in practice. This was the statutory prohibition, after 1909, on the receipt of deposits, excluding deposits of other banks, in excess of ten times paid-up capital and surplus. If the reports of a bank indicated deposits in excess of this ratio, it became the duty of the Commissioner to require the bank to increase its capital or surplus or to cease to receive deposits. This provision of law could have been made a valuable weapon in maintaining the banks in a sound condition and in preventing unwise bank expansion, had the ratio been computed on the capital and surplus as appraised by bank examiners instead of being computed on capital and surplus as stated in the reports of the banks, and had the examining force been sufficiently large and competent to provide good appraisals. The law specified that action was to be taken on the basis of the reports submitted by the banks, such reports to be in the form required by the Commissioner; but did not specify that the Commissioner could require the banks, in submitting reports of assets and liabilities for this purpose, to adjust valuations in accordance with examiners' appraisals.

Statutory limitations on bank operations. The principal statutory limitations on banking operations, under the 1908 law and the amendments adopted while deposit guaranty was in force, are summarized in Table 2.

---

1/ George Marion Crisp, The Guaranty of Bank Deposits, thesis for M. A. degree at University of Oklahoma, 1926, p. 55.

Table 2. STATUTORY LIMITATIONS ON BANK OPERATIONS IN OKLAHOMA

| Item | Provisions of law 1/ |
|---|---|
| **Responsibility of officers, directors, and stockholders:** | |
| Examination of bank | Directors to make thorough examination twice a year of books, records, funds and securities, to be recorded in detail and copy forwarded to bank commissioner and each stockholder. |
| Losses resulting from violations of law | Officers, directors, and any other persons participating in a violation of law liable for all damages incurred as a result of such violation. |
| Liability of stockholders | Additionally liable for amount of stock owned. |
| Bonding of active officers and employees | Board of Directors to require cashier and any officers handling funds to give good and sufficient bond to be held by Banking Board. |
| **Limitations on loans and investments** | |
| Loans to bank examiners | No provision. |
| Loans to officers and employees | Either direct or indirect loans to active managing officers forbidden. |
| Loans to directors | No specific provision. |
| Loans to stockholders | Total indebtedness of stockholders limited to 50 percent of paid-up capital. |
| Maximum to single borrowers (not to apply to bills of exchange or discounts collateralled by warehouse receipts under specified conditions) | Limited to 20 percent of paid-up capital. |
| Maximum secured by real estate | 20 percent of the aggregate loans of the bank, on real estate secured by first mortgages running not longer than one year. |
| Secured by own capital stock (applicable also to purchase of own stock) | Prohibited unless necessary to prevent loss on debt previously contracted and to be disposed of within six months of acquisition. |

Table 2. STATUTORY LIMITATIONS ON BANK OPERATIONS IN OKLAHOMA - continued

| Item | Provisions of law |
|---|---|
| **Limitations on ownership of real estate and stocks** | |
| Maximum in banking house and equipment | One-third of paid-up capital. |
| Time limit on real estate acquired by collection of debt | Five years and to be disposed of within thirty days thereafter. |
| Other real estate | Prohibited. |
| Bank stocks | Prohibited, except stock in Federal Reserve bank, unless acquired to prevent loss on debt. |
| Other corporate stocks | Prohibited. |
| **Limitations relating to deposits** | |
| Maximum aggregate deposits | May be fixed by Commissioner in proportion to paid-up capital and surplus. In 1909, amended to ten times paid-up capital and surplus, excluding deposits of other banks. |
| Maximum rate of interest payable on deposits | To be fixed at discretion of Commissioner. |
| Receipt of deposit when insolvent or in failing circumstances | Prohibited. |
| **Required reserves** | |
| Total required | Until 1915, 20 percent of entire deposits in areas with population under 2,500, and 25 percent in areas with population over 2,500, or if bank a reserve depository; in 1915 amended to 15 percent and 20 percent, respectively. 2/ |
| In actual cash in bank | One-third. |
| Character of balance | Balances to be held in solvent banks selected from time to time by Commissioner. |
| **Limitations on borrowing** | |
| Maximum amount | 50 percent of paid-up capital for temporary deficiencies; Commissioner to prohibit borrowing for relending. 3/ |
| Maximum value of assets pledgeable as security | Not specified (may pledge assets). |

Table 2. STATUTORY LIMITATIONS ON BANK OPERATIONS IN OKLAHOMA - continued

| Item | Provisions of law |
|---|---|
| **Limitation on payment of dividends** | |
| Earnings to be carried to surplus prior to dividends | 1/10 of net profits until surplus 50 percent of paid-up capital. |
| When losses equal or exceed undivided profits | Forbidden. |
| When reserve is impaired | Forbidden. |
| When insolvent or capital impaired | Forbidden. |
| Maximum | Amount determined by directors to be expedient after deducting losses and bad debts. |
| **Minimum capital stock** | |
| New banks 4/ | Graduated by population of city or town:<br>20,000 or more population - $100,000<br>6,000 to 20,000 population - 50,000<br>1,500 to 6,000 population - 25,000<br>500 to 1,500 population - 15,000<br>500 or less population - 10,000 |
| Other banks | See limitation on deposits (above). |

1/ As of May 26, 1908, with subsequent amendments during the period of operation of the deposit guaranty system. For the most part the act of May 26, 1908, was a codification of the previous banking statutes, including the territorial banking law and the deposit guaranty law enacted December 17, 1907.
2/ Savings banks not transacting general banking business required to keep 10 percent of deposits in cash and 10 percent invested in federal, state, county or municipal bonds. After 1921, State banks members of Federal Reserve System to comply with reserve requirements of Federal Reserve.
3/ After 1921, State banks members of Federal Reserve System not subject to limitations on borrowing.
4/ Until 1909, ranged from $10,000 in places with population of less than 2,500 to $25,000 in places with more than 10,000.

## INSUFFICIENCY AND CLOSING OF THE GUARANTY FUND

Inadequacy of the guaranty fund. In September 1909, less than twenty months after the deposit guaranty law went into operation, the largest bank participating in the system failed, with liabilities far larger than the accumulated fund. The crisis in the fund's affairs resulting from this failure was met by using the power to issue certificates of indebtedness, an emergency assessment on the participating banks, and unusual methods of handling the affairs of the closed bank.[1/]

For nearly a decade the fund was continuously in debt. The limitation on assessments after 1913, and particularly the prohibition of special assessments after 1916, drastically curtailed the possibility of rapid retirement of obligations issued to make payments to depositors of failed banks. During most of this period of indebtedness, the major part of the fund's debt was owned by the participating banks, with much of it deposited with the State Banking Board as security for payment of future assessments.[2/] This procedure had become possible under the provisions of the 1913 law regarding issue of "Depositors Guaranty Fund Warrants," and assured a ready market for the warrants. There were, however, diverse attitudes towards the warrants. In January 1916 the Treasurer of the State Banking Board referred to the warrants as "the only 6 per cent investment I know of in the state that you can buy at par that is absolutely good."[3/] But a banker commented on them as follows,

---

1/ The Banking Board was able to delay or adjust payments to some depositors with large accounts who were closely associated with the management of the bank. The closing of this bank and the handling of its affairs are described in Robb, The Guaranty of Bank Deposits, pp. 43-57.

2/ "With the money collected from the assets of failed banks being applied on the outstanding secured warrants, and with the state banks gradually taking up more warrants with cash in lieu of depositing security with the Banking Board, it will not be long before all the warrant indebtedness of the Guaranty Fund will be held by the state banks themselves." Editorial in The State Banker, official organ of the Oklahoma State Bankers Association, October 1915, pp. 16-17.

3/ The State Banker, January 1916, p. 22.

after asking whether the item of "Securities with the State Banking Board", carried as an asset, is such or a liability:

> I venture the assertion that should an examiner find in my case a note that had the appearance of being as slow as he knows my securities with the State Banking Board are bound to be, he would require me to charge it off though I might be able to prove to him that it would be paid years before my Guarantee Warrants...Why should we carry these warrants and pay ourselves interest on them when we must pay the interest ourselves to ourselves? Is it to fool ourselves or to fool the people? We may fool ourselves but be assured that we cannot fool the people. 1/

This question of the worth of the warrants soon began to appear theoretical. The increased yield of the regular assessments for the guaranty fund and the reduced frequency of failures during the inflationary period of World War I made it possible to retire all outstanding warrants by the middle of 1919. For a year thereafter the guaranty fund was out of debt.

Suspension of payments from the fund. In the latter part of 1920 and in 1921 came the nationwide wave of bank failures accompanying the deflationary policies of that period. The impact of the deflation on banks in Oklahoma was doubtless accentuated by the laxity of bank supervision after 1919, but the major factor in the situation was the collapse in values, particularly in farm products. Further, the guaranty system, with assessments limited to one-fifth of 1 percent per year, was much less capable of meeting an adverse situation than it had been at its beginning. But for a year the obligations of the fund to the depositors of failed banks were met through issuance of warrants, which, as in the earlier period, were mostly sold to the participating banks and deposited with the

---

1/ J. L. Pryor, "Guaranty Fund Warrants," The State Banker, January 1916, p. 42.

Banking Board in lieu of other collateral as security for payment of future assessments. In this period the impetus to this procedure appears to have come as much from the State Banking Board as from the participating banks, and by the latter part of 1921 only about one-tenth of the participating banks had securities other than guaranty fund warrants deposited with the State Banking Board.[1] By that time there was no other cash market for the warrants. They could legally be issued to the depositors of banks that closed, but the depositors would have little hope of eventual payment. This resulted from the fact that the earliest issued outstanding warrants, with interest at 6 percent per year, had priority of payment from the guaranty fund, both from the proceeds of future assessments on participating banks, and from the proceeds of liquidation of failed banks. Recoveries from the assets of additional banks that might fail would therefore be used to pay obligations arising from earlier failures. It was estimated that the interest on outstanding warrants would absorb a large share of the assessment receipts, and retirement of the outstanding warrants from the remainder of the receipts would take twenty years.[2]

On the first of November 1921, the second largest bank then participating in the guaranty system failed. Two weeks later, at a meeting of the State Banking Board, the Board discussed the condition of the banks and of the guaranty fund, and talked with the State Governor about them.

---

1/ From evidence presented at the litigation regarding disposition of the remaining assets of the fund after repeal of the law.

2/ Thornton Cooke, "The Collapse of Bank-Deposit Guaranty in Oklahoma and Its Position in Other States," loc. cit.

> At this informal meeting with the Governor, the further issuance of warrants to depositors in failed banks was thoroughly discussed, and each member of the Board was asked what his attitude would be toward calling on the State Banks of Oklahoma for additional securities, said securities being necessary before the issuing of warrants could be made practical as outlined by the opinion of Judge Zwick of the Attorney-General's office. Each member of the Board expressed himself as being unwilling to call on the State Banks for additional security at this time, knowing their strained condition, and knowing that to enforce same would mean the closing of numerous other banks. 1/

This was followed, at a subsequent meeting of the State Banking Board, by a resolution "that the moneys and funds on hand shall be used in the liquidation of contracts now in effect, and that they will not make any contracts or promises that are contingent on the future collections of the assets of the Guaranty Fund until said funds are available for distribution." 2/

Repeal of the deposit guaranty law. With numerous additional failures in 1922, and a sharp contraction of deposits in participating banks and therefore in the income from assessments, there was no hope of restoring the system to solvency without aid from the State. A bill to issue bonds to meet the deficit in the guaranty fund was debated and defeated in the State Legislature at its session in early 1923. A bill which repealed all assessments and the provisions for issuing certificates and warrants, without releasing banks and their officers from obligations already incurred, was thereupon passed and became effective on March 31 of that year. The repeal of the law was followed by litigation regarding the distribution of the assets remaining in the Guaranty Fund, which delayed settlement of the affairs of the fund until 1934.

---

1/ Minutes of the State Banking Board, meeting of Nov. 16, 1921.
2/ Minutes of the State Banking Board, meeting of Jan. 9, 1922.

## NUMBER, DEPOSITS, AND FAILURES OF PARTICIPATING BANKS

Number and deposits of participating banks. The number of banks operating in Oklahoma which participated, and the number which were not eligible to participate, in the deposit guaranty system each year, are given in Table 3. The participating banks include all State banks and, during the years 1908-1910, trust companies. The nonparticipating banks include national banks and, after September 1911, trust companies operating under State law.

During the first two years of deposit guaranty the proportion of banks in the State operating under the guaranty system rose rapidly, due primarily to the conversion of national banks to State banks. After the third year the proportion operating under the guaranty system declined, primarily as the result of conversions of State to national banks.

The deposits of the participating banks and nonparticipating banks, for each year, are given in Table 4. During the first two years of deposit guaranty the proportion of all bank deposits in the State which were held by the participating banks rose rapidly. After 1910, however, the proportion held by banks in the guaranty system declined.

The deposits of participating banks given in Table 4 exceed the amount of deposits covered by guaranty, because certified and cashier's checks, public funds, and, after 1913, other secured deposits were excluded from guaranty.

Concentration of bank deposits. Table 5 shows the amounts of deposits held on November 10, 1910, and December 29, 1920, by State banks in Oklahoma grouped according to their deposits. In 1910, 11 percent of the deposits, and in 1920, 15 percent, were concentrated in the ten largest banks. The largest bank in 1910 held 2.2 percent, while the largest bank in 1920 held 2.7 percent, of the deposits of all State banks.

Table 3. NUMBER OF OPERATING BANKS IN OKLAHOMA PARTICIPATING AND NOT PARTICIPATING IN THE DEPOSIT GUARANTY SYSTEM, 1908-1922, BY YEARS

| Date 1/ | All banks operating in Oklahoma | Participating in deposit guaranty 2/ | Not participating in deposit guaranty 3/ | Percentage participating |
|---|---|---|---|---|
| Feb. 1908 | 782 | 470 | 312 | 60.1 |
| End of year | | | | |
| 1908 | 834 | 546 | 288 | 65.5 |
| 1909 | 887 | 668 | 219 | 75.3 |
| 1910 | 924 | 695 | 229 | 75.2 |
| 1911 | 914 | 631 | 283 | 69.0 |
| 1912 | 923 | 615 | 308 | 66.6 |
| 1913 | 913 | 582 | 331 | 63.7 |
| 1914 | 913 | 563 | 350 | 61.7 |
| 1915 | 903 | 557 | 346 | 61.7 |
| 1916 | 885 | 547 | 338 | 61.8 |
| 1917 | 901 | 566 | 335 | 62.8 |
| 1918 | 936 | 581 | 355 | 62.1 |
| 1919 | 944 | 599 | 345 | 63.5 |
| 1920 | 977 | 622 | 355 | 63.7 |
| 1921 | 938 | 556 | 382 | 59.3 |
| 1922 | 910 | 463 | 447 | 50.9 |

1/ End of year data are for call dates on or nearest to December 31. The call dates for State and national banks are not identical in several years.

2/ Includes all banks and trust companies operating under State law, except 2 trust companies in 1911, 2 in 1912, and 1 in 1913. After 1911 trust companies were excluded from deposit guaranty, but none is reported as engaged in banking operations after 1913. Figures for 1908-1920 from biennial reports of the Bank Commissioner; figures for 1921 and 1922 from Federal Reserve Bulletin, November 1937, p. 1117. Reports of the Bank Commissioner were not published subsequent to 1920.

3/ Includes national banks operating in Oklahoma, and also 2 trust companies in 1911, 2 in 1912, and 1 in 1913, operating under State law but excluded from deposit guaranty.

Table 4. DEPOSITS OF OPERATING BANKS IN OKLAHOMA PARTICIPATING AND NOT PARTICIPATING IN THE DEPOSIT GUARANTY SYSTEM, 1908-1922, BY YEARS

(Amounts in thousands)

| Date 1/ | All banks operating in Oklahoma | Banks participating in deposit guaranty 2/ | Banks not participating in deposit guaranty 3/ | Percentage of deposits in all banks held by participating banks |
|---|---|---|---|---|
| Feb. 1908 | $63,288 | $18,720 | $44,568 | 29.6 % |
| End of year | | | | |
| 1908 | 75,238 | 31,617 | 43,621 | 42.0 |
| 1909 | 105,815 | 54,769 | 51,046 | 51.8 |
| 1910 | 121,012 | 61,309 | 59,703 | 50.7 |
| 1911 | 106,698 | 44,004 | 62,694 | 41.2 |
| 1912 | 122,802 | 45,878 | 76,924 | 37.4 |
| 1913 | 135,233 | 46,131 | 89,102 | 34.1 |
| 1914 | 129,301 | 44,773 | 84,528 | 34.6 |
| 1915 | 158,153 | 48,460 | 109,693 | 30.6 |
| 1916 | 265,349 | 84,799 | 180,550 | 31.9 |
| 1917 | 381,935 | 137,392 | 244,543 | 35.9 |
| 1918 | 338,998 | 120,660 | 218,338 | 35.6 |
| 1919 | 513,071 | 190,900 | 322,171 | 37.2 |
| 1920 | 434,364 | 160,673 | 273,691 | 36.9 |
| 1921 | 359,691 | 112,579 | 247,112 | 31.3 |
| 1922 | 392,990 | 75,027 | 317,963 | 19.1 |

1/ End of year data are for call dates on or nearest to December 31. The call dates for State and national banks are not identical in several years.

2/ Deposits of all State banks and trust companies, with deposits of trust companies deducted as follows: 1911, $600,000 (est.); 1912, $701,000; 1913, $500,000 (est.). Figures for 1908-1920 from annual reports of the Bank Commissioner; figures for 1921 and 1922 estimated by averaging the deposits for the preceding and succeeding June 30, as given in the annual reports of the Comptroller of the Currency. Reports of the Bank Commissioner were not published subsequent to 1920. The amounts of deposits given here exceed the amounts of deposits protected by the depositors' guaranty fund, since certified and cashier's checks, public funds, and after 1913 other secured deposits, were excluded from guaranty.

3/ Deposits of national banks plus the deposits of trust companies given in note 2.

Table 5. NUMBER AND DEPOSITS OF STATE BANKS IN OKLAHOMA, NOVEMBER 10, 1910, AND DECEMBER 29, 1920

Banks grouped by amount of deposits

| | Number of banks | Amount of deposits (in thousands) | Percentage of number of banks | Percentage of aggregate deposits |
|---|---|---|---|---|
| All State banks, November 10, 1910 1/ | 693 | $61,612 | 100.0% | 100.0% |
| Banks with deposits of -- | | | | |
| $100,000 or less | 520 | 26,590 | 75.0 | 43.2 |
| $100,000 to $250,000 | 133 | 19,150 | 19.2 | 31.1 |
| $250,000 to $500,000 | 34 | 11,178 | 4.9 | 18.1 |
| $500,000 to $1,000,000 | 5 | 3,362 | 0.7 | 5.5 |
| $1,000,000 to $2,000,000 | 1 | 1,332 | 0.1 | 2.2 |
| Largest bank | | 1,332 | | 2.2 |
| Largest 5 banks | | 4,157 | | 6.7 |
| Largest 10 banks | | 6,513 | | 10.6 |
| All State banks, December 29, 1920 1/ | 621 | $158,960 | 100.0 | 100.0 |
| Banks with deposits of -- | | | | |
| $100,000 or less | 174 | 12,053 | 28.0 | 7.6 |
| $100,000 to $250,000 | 268 | 43,671 | 43.2 | 27.5 |
| $250,000 to $500,000 | 119 | 40,437 | 19.2 | 25.4 |
| $500,000 to $1,000,000 | 41 | 27,512 | 6.6 | 17.3 |
| $1,000,000 to $2,000,000 | 14 | 19,833 | 2.3 | 12.5 |
| $2,000,000 to $5,000,000 | 5 | 15,454 | 0.8 | 9.7 |
| Largest bank | | 4,222 | | 2.7 |
| Largest 5 banks | | 15,454 | | 9.7 |
| Largest 10 banks | | 24,507 | | 15.4 |

1/ Tabulated from statements for individual banks given in the reports of the Bank Commissioner. Totals differ slightly from the figures given in summary tables for the same dates in the Commissioner's reports, which are as follows: November 10, 1910, 694 banks with deposits of $61,442,000; December 29, 1920, 622 banks with deposits of $160,673,000.

The figures for 1910 do not show as great a concentration of the risk falling upon the guaranty fund as actually existed during the early years of the guaranty system. The largest bank in the State, with deposits of $2,742,000, had failed in September 1909. At the time of its failure, this bank held approximately 5 percent of the deposits of all banks covered by the guaranty system.

Number and deposits of failed banks. During the 15 years of the guaranty system in Oklahoma, 140 participating banks closed, or were absorbed or reorganized with financial support from the guaranty fund, because of financial difficulties. The aggregate deposits of these banks at time of suspension amounted to approximately $30 million. Several of the banks that closed were banks which had previously suspended and had reopened or reorganized. One of the suspended banks reopened without a payment, or obligation due, from the guaranty fund.

Failures entailing obligations on the guaranty fund occurred each year that the system was in operation. The average annual rate of failure, computed as the number which failed per 100 in operation at the beginning of the year, was 1.6. The deposits of the suspended banks averaged $2.34 per year for each $100 of deposits in operating banks. Data by years are given in Table 6.

The heaviest failure rates, with respect to the number of banks, were in 1921, 1922, and early 1923. A substantial part of these failures occurred after the fund was exhausted in the autumn of 1921 and the officials had ceased to pay off the depositors of closed banks. In terms of deposits, failures in 1921, which exhausted the fund, were less serious relative to the deposits of the participating banks than those in 1909 and

Table 6. NUMBER AND DEPOSITS OF STATE BANKS IN OKLAHOMA CLOSED BECAUSE OF FINANCIAL DIFFICULTIES, FEBRUARY 14, 1908, TO MARCH 31, 1923, BY YEARS [1]

Banks entailing obligations on the depositors guaranty fund

| Period | Number | Deposits (in dollars) | Number suspended per 100 participating banks | Deposits in closed banks per $100 of deposits in participating banks |
|---|---|---|---|---|
| **Total** | **139** | **$29,486,076** | **1.6** | **$2.34** |
| **Sub-totals for selected periods** | | | | |
| 1908-1919 | 59 | 10,736,964 | .9 [2] | 1.46 [2] |
| Jan. 1920-Oct. 1921 | 23 | 5,342,982 | 2.1 [2] | 1.65 [2] |
| Nov. 1921-March 1923 | 57 | 13,406,130 | 7.3 [2] | 8.46 [2] |
| **Year** | | | | |
| 1908 [3] | 1 | 36,745 | .2 [2] | .22 [2] |
| 1909 | 3 | 2,872,514 | .5 | 9.09 |
| 1910 | 3 | 661,308 | .4 | 1.21 |
| 1911 | 8 | 1,143,882 | 1.2 | 1.87 |
| 1912 | 4 | 655,983 | .6 | 1.49 |
| 1913 | 16 | 1,993,450 | 2.6 | 4.35 |
| 1914 | 6 | 501,216 | 1.0 | 1.09 |
| 1915 | 6 | 360,451 | 1.1 | .81 |
| 1916 | 1 | 40,337 | .2 | .08 |
| 1917 | 2 | 84,998 | .4 | .10 |
| 1918 | 3 | 1,202,975 | .5 | .88 |
| 1919 | 6 | 1,183,105 | 1.0 | .98 |
| 1920 | 8 | 2,375,357 | 1.3 | 1.24 |
| 1921 | 28 [4] | 6,509,045 [4] | 4.5 | 4.05 |
| 1922 | 33 | 8,404,257 | 5.9 | 7.47 |
| 1923 [5] | 11 | 1,460,453 | 9.3 [2] | 7.63 [2] |

[1] In addition, 1 bank with deposits of $94,000 suspended in 1921, and reopened without any payment, or obligations due, from the fund.

[2] Computed on an annual basis.

[3] After February 14.

[4] Of these banks, 15 with deposits of $2,967,625 closed prior to the time payments to depositors ceased because of insolvency of the fund.

[5] To March 31.

in 1913. In fact, the fund was as insolvent in 1909, after the failure of the largest bank in the State, with deposits of $2,742,000, as it was when payments to depositors ceased in 1921. However, the 1909 crisis was succeeded by a period with failure rates sufficiently low and assessment rates sufficiently high to permit the fund to be recouped, while the failures in 1921 and 1922 resulted in obligations so great that, with the reduced maximum rate of assessment, many years would have been required to meet them.

Nearly one-half of the closed banks were very small, having less than $100,000 deposits each. These banks held about one-tenth of the deposits of all of the suspended banks. Only three of the closed banks had deposits of more than $1,000,000, but these accounted for 22 percent of the deposits of all of the closed banks. A distribution of the closed banks and of their deposits according to the amount of deposits held is given in Table 7, and compared with an average of the size distributions of operating banks for dates for which such data are available.

During the period of the guaranty fund, that is, from February 14, 1908, to March 31, 1923, failures among State banks were positively correlated with size of bank. The smallest banks had the lowest, and the largest banks the highest, failure rate. Failures among banks with less than $100,000 of deposits, for the entire 15-year period, were about one-sixth of the average number of operating banks of this size, while failures among banks with more than $1,000,000 deposits were four-fifths of the average number of such banks in operation. If failure rates are computed for the period up to October 31, 1921, when payments to depositors in closed

Table 7. SIZE DISTRIBUTION OF FAILED BANKS IN OKLAHOMA COMPARED WITH AVERAGE SIZE DISTRIBUTION OF OPERATING STATE BANKS: PERIOD OF OPERATION OF DEPOSIT GUARANTY SYSTEM

| | Average number of operating banks 1/ | Number of failed banks 2/ | Percentage of total number | | Average annual number of failed banks per 100 active banks |
|---|---|---|---|---|---|
| | | | Operating banks | Failed banks | |
| Total number of banks | 592 | 139 | 100.0 | 100.0 | 1.6 |
| Banks with deposits of -- | | | | | |
| $100,000 or less | 359 | 66 | 60.7 | 47.5 | 1.2 |
| $100,000 to $250,000 | 166 | 42 | 27.9 | 30.2 | 1.7 |
| $250,000 to $500,000 | 48 | 21 | 8.1 | 15.1 | 2.9 |
| $500,000 to $1,000,000 | 14 | 7 | 2.4 | 5.0 | 3.3 |
| $1,000,000 to $2,000,000 | 4 | 1 | .7 | .7 | 1.7 |
| $2,000,000 or more | 1 | 2 | .2 | 1.4 | 10.0 |

| | Average deposits of operating banks (thousands of dollars) 1/ | Deposits of failed banks (thousands of dollars) 2/ | Percentage of total deposits | | Average annual amount of deposits in failed banks per $100 deposits in operating banks |
|---|---|---|---|---|---|
| | | | Operating banks | Failed banks | |
| Total deposits | $78,157 | $29,486 | 100.0 | 100.0 | $2.51 |
| Banks with deposits of -- | | | | | |
| $100,000 or less | 18,056 | 3,556 | 23.1 | 12.1 | 1.31 |
| $100,000 to $250,000 | 25,174 | 6,412 | 32.2 | 21.7 | 1.70 |
| $250,000 to $500,000 | 15,911 | 7,564 | 20.4 | 25.7 | 3.17 |
| $500,000 to $1,000,000 | 9,540 | 5,487 | 12.2 | 18.6 | 3.84 |
| $1,000,000 to $2,000,000 | 5,716 | 1,656 | 7.3 | 5.6 | 1.92 |
| $2,000,000 or more | 3,760 | 4,807 | 4.8 | 16.3 | 8.51 |

1/ Averages of number operating on dates for which data regarding individual banks are available in the reports of the Bank Commissioner, as follows: September 23, 1908; November 10, 1910; November 26, 1912; December 8, 1914; November 17, 1916; November 17, 1918; and December 29, 1920.

2/ Banks closed because of financial difficulties which entailed payments, or obligations due, from the guaranty fund, during period of operation of the deposit guaranty system, February 14, 1908, to March 31, 1923.

Note: Because of rounding, data may not add precisely to the indicated totals.

banks ceased, the same relationship holds. This relationship of failures to size of bank was also characteristic of national banks in Oklahoma during the same period. The failure rate of national banks with more than $1,000,000 of deposits was five times as high as that for banks with deposits under $100,000.

Comparison with failures in other States. The number of bank failures during the years, 1908-1922, relative to active banks, was nearly twice as large in Oklahoma as in the United States as a whole, or as in the six States contiguous to Oklahoma combined. However, in one of the contiguous States (New Mexico), the relative number of State bank suspensions was higher, and in two other contiguous States (Colorado and Arkansas), the rate was nearly as high as in Oklahoma. In terms of deposits the Oklahoma rate for State banks was apparently higher than in any of the contiguous States, though not far above that in New Mexico. A comparison of the Oklahoma rates with those for contiguous States and the United States is given in Table 8.

In two of the contiguous States, Kansas and Texas, deposit guaranty systems were operative during most of the period embraced by these figures. The failure rates for both of these States were far below those for Oklahoma.

These figures suggest that the existence of deposit guaranty in Oklahoma was not a significant causative factor in the high rate of bank suspensions, as has been claimed by opponents of the principle of deposit insurance. The high rate of failures in the State appears more probably due to causes which operated also in New Mexico and Colorado, and to a lesser extent in Arkansas and Texas, but were of much less consequence in Kansas and Missouri.

Table 8. ANNUAL BANK FAILURE RATES IN OKLAHOMA, 1908-1922, COMPARED WITH RATES IN CONTIGUOUS STATES AND IN THE UNITED STATES 1/

| | Failures per 100 operating banks | | | Deposits in failed banks per $100 in operating banks | | |
|---|---|---|---|---|---|---|
| | State and national banks | State banks | National banks | State and national banks | State banks | National banks |
| Oklahoma | 1.1 | 1.5 | 0.3 | $1.07 | $2.42 | $0.29 |
| Six contiguous States | 0.5 | 0.6 | 0.2 | .31 | .56 | .09 |
| Kansas | 0.3 | 0.4 | 0.1 | .28 | .44 | .06 |
| Missouri | 0.2 | 0.2 | ... | .09 | .17 | ... |
| Arkansas | 1.0 | 1.1 | 0.6 | .61 | .73 | .41 |
| Texas | 0.5 | 0.8 | 0.3 | .62 | 1.85 | .15 |
| New Mexico 2/ | 2.3 | 3.0 | 0.8 | .80 | 1.92 | .28 |
| Colorado | 0.9 | 1.3 | 0.3 | .22 | .43 | .14 |
| Entire United States | 0.5 | 0.6 | 0.2 | .20 | .31 | .07 |

1/ Tabulated from data from the following sources: reports and records of bank commissioners in the various States; Willis, Banking Inquiry of 1925; annual reports of the Comptroller of the Currency; Federal Reserve Bulletin, September 1937.

2/ For the years 1912-1922.

Causes of bank failures. Numerous circumstances contribute to the financial difficulties which result in bank failures. However, in most cases the factors responsible for failure are predominantly associated with one of the following groups: (a) dishonesty on the part of officers or employees; (b) excessive loans directly or indirectly to certain business interests, often to the interests of an influential official or stockholder; (c) adverse economic conditions in a dominant industry and collapse of property values associated therewith; and (d) general managerial incompetence.

For 35 failures which occurred during the years 1909 to 1918, the Biennial Reports of the Bank Commissioner of Oklahoma contain brief comments regarding the cause of failure, the character of the bank's management, or other aspects of the bank's operations. In about one-half of these cases sufficient information is given to indicate the major factor responsible for the failure. In twelve cases defalcation by officers or employees is mentioned, and was assigned primary responsibility for the failure in the majority of these cases. In four cases excessive loans to certain interests were noted, and in four cases failure was ascribed to bad or incompetent management. In only two cases was any mention made of business depression or of adverse economic circumstances.

The operation of the deposit guaranty law in Oklahoma during the first 12 years of its history, from 1908 to early 1920, was carefully studied by Thomas Bruce Robb.[1/] Of 57 failures during that period, a number were selected as typical. In 18 cases Mr. Robb cites specific

---

1/ Robb, The Guaranty of Bank Deposits, pp. 42-73.

causes of failure, or gives sufficient information to warrant classification. Of these, six were attributed chiefly to fraud or defalcation on the part of bank officers, and 12 to speculative and excessive loans to interests associated with the bank managements.

The Comptroller of the Currency, in his report for 1921, summarized the experience of States with deposit guaranty plans in operation. His statement regarding the causes of bank failures in Oklahoma is as follows:

> The closing of 42 of the 95 banks was due to a decline in the value of the assets, poor management, and slow loans, inability to realize on loans, injudicious investments, and shrinkage in deposits. In 34 cases closing was due to criminal acts on the part of officers, including embezzlement, misapplications, or use of the banks' funds in speculation for private gain. In 19 cases the cause of closing is not on record here. 1/

The failures described in the Bank Commissioner's reports, and those reviewed by Mr. Robb, took place prior to the collapse in prices of farm products and the business depression in 1921. The failures in 1921 and in 1922 were more directly associated with adverse economic circumstances than were those in the preceding years, though such evidence as is available indicates that incompetent management and speculative loans also played a part in these failures. There is no evidence that the number of failures during this period was affected by the insolvency of the guaranty fund. High failure rates in 1921 and 1922, in comparison with those during the previous decade, occurred not only among the State banks in Oklahoma, but also among national banks in the State, and among both State and national banks in most of the contiguous States.

---

1/ Annual Report of the Comptroller of the Currency, 1921, p. 188.

Procedures used in handling failed banks. The affairs of the first three banks that failed after establishment of the deposit guaranty system in Oklahoma were liquidated by the Bank Commissioner. Of the 79 other banks that failed before the State Banking Board discontinued payments from the guaranty fund, only seven were liquidated directly by the Bank Commissioner. In the other cases, the liabilities of the failed bank, or most of them, were assumed by another operating bank or by a newly organized bank, or the affairs of the failed bank were liquidated by another bank, with an immediate payment or a guarantee, or both, by the depositors' guaranty fund. The reasons for using these procedures were given by the Bank Commissioner as follows:

> ... we can liquidate a bank much more economically through another bank located in the same town, or by permitting the failed bank to be reorganized under another name. The notes are paid or secured more readily, and the Banking Board is only required to handle such paper as the Bank purchasing the assets is unable to collect or have renewed to their satisfaction. By this method, a very small amount of money will take care of the liquidation of a failed bank, and no financial disturbance whatever is created in the community where the bank is located. 1/

There was considerable variety in the details of the arrangements made with the successor, absorbing, or liquidation-handling bank. This is illustrated by the following cases described in the reports of the Bank Commissioner:

> Bank of Ochelata, closed December 31, 1909.
>
> The Commissioner entered into an agreement with Mr. G. D. Davis of Claremore and his associates, to liquidate the Bank of Ochelata, through a new institution to be known as the Oklahoma State Bank... the Commissioner agreeing that the State Banking Board would protect the said Oklahoma State Bank against loss in assuming the obligations to the depositors of the Bank of Ochelata. On July 25, 1910, the Oklahoma State Bank submitted a report...showing that there was due them for notes which they were unable to collect, the sum of $18,968.48. The Banking Board issued their warrant for the above amount and took up the notes.

---

1/ Second Biennial Report of the Bank Commissioner, 1910, p. xii.

Oklahoma State Bank, Durant, closed April 28, 1910.

An agreement was entered into with the Guaranteed State Bank, of that city, to liquidate the Oklahoma State Bank, and the State Banking Board deposited with the said Guaranteed State Bank, the sum of $25,000 to protect it against loss.

Creek Bank & Trust Company, Sapulpa, closed November 11, 1910.

Mr. M. Jones of Bristow and his associates offered to re-organize the bank under the name of the Oklahoma State Bank, of Sapulpa, and pay in the 100 percent assessment, on the condition that the Bank Commissioner enter into an agreement to place all cash and accounts on the books in balance, and obtain the guarantee of the State Banking Board on such notes belonging to the assets of the Creek Bank & Trust Company, as the Oklahoma State Bank might desire to have guaranteed after thirty days' investigation. Such an agreement was entered into and the same was confirmed by the Banking Board at a meeting on Dec. 1st, 1910. 1/

Bank of Commerce, Geary, closed May 5, 1911.

The American State Bank of Geary assumed all of the deposits of the said bank and took over certain of its assets. The Banking Board paid it the difference between the deposits which it assumed and the assets which it took over.

Citizens Bank, Mountain Park, closed April 10, 1911.

A new charter was granted to the Planters State Bank of Mountain Park and it purchased the good assets of the Citizens Bank, and the Banking Board made up the difference between the assets purchased and the liabilities of the failed bank...

Night & Day Bank, Oklahoma City, closed June 7, 1911.

The Night & Day Bank was taken over by the Wilkin-Hale State Bank, September 18, 1911, the Banking Board taking all doubtful assets not accepted by the Wilkin-Hale State Bank, and paying them the difference between the liabilities assumed and assets taken over...

First State Bank, Shattuck, closed October 3, 1911.

This bank was voluntarily liquidated through the Guarantee State Bank of Shattuck...The Banking Board advanced $20,004.29 in the liquidation...

Farmers State Bank, Tushka, closed September 28, 1911.

The Banking Board made an agreement with the stockholders that if they would pay in their double liability and put up an additional capital stock, that they would be protected. 2/

---

1/ Second Biennial Report of the Bank Commissioner, 1910, pp. ix, x, and xi-xii.

2/ Third Biennial Report of the Bank Commissioner, 1912.

The records of the amounts paid by the fund suggest that the objectives of reducing the liquidation cost and the disbursement of the guaranty fund were not always achieved, particularly in some of the cases in which the fund made an immediate payment to the absorbing bank and also gave a guaranty against additional loss on the liquidation of the assets. In some cases liabilities other than guaranteed deposits were protected, with direct or indirect losses to the fund, and in some cases the absorbing or successor banks do not appear to have been diligent in making collections. A particularly striking case was the Citizens State Bank of Coalgate, which closed November 19, 1920, with deposits of $496,000, of which $429,000 are estimated to have been covered by the guaranty. The initial payment to the successor bank was $328,000, partly in cash and partly in warrants of the depositors guaranty fund. During the next twelve months several additional payments were made, as the successor bank reported its inability to collect on assets taken over, bringing the total disbursement of the fund to $498,000. The reported recovery by the fund was only $26,000.[1/] In several other failures in the latter part of 1920 or in 1921 the disbursement by the fund, less the reported recovery, was nearly as large, or larger, than the deposits at date of failure. These large losses may have been due to inefficiency, or corruption, in the administration of the Bank Commissioner's office: they occurred during the time when Fred Dennis, later convicted for taking a bribe from a bank in difficulty, was Bank Commissioner.

---

1/ Minutes of the State Banking Board and other records in the Bank Commissioner's office.

A large majority of the banks that failed after cessation of payments from the guaranty fund, up to the repeal of the law, were liquidated by the Bank Commissioner. The method of liquidation used in these cases, and in liquidating such assets as were acquired by the fund from the failed banks that were succeeded or absorbed, was also expensive. The procedure was described by a later Bank Commissioner as follows:

> In fairness to the guaranty fund system of Oklahoma, it should be mentioned that during most of the time it was in operation the cost of liquidating failed banks was an expensive process. Liquidations were handled on a fee basis. The contracts of liquidating agents usually called for ten per cent of collections the first year, twenty-five per cent the second year, and fifty per cent the third year. In addition to this, they were allowed all traveling and other expenses, and when it was necessary to place an instrument in the hands of an attorney for collection, another large fee had to be paid. With such a contract it is not unreasonable to suppose that most collections were made during the second and third years. Anyway the cost of liquidation in virtually all instances amounted to fifty per cent or more of a bank's assets... 1/

## FINANCIAL HISTORY OF THE GUARANTY FUND

Sources and adequacy of information. Published information regarding the operation of the Oklahoma depositors guaranty fund is inadequate. No statements of the fund were published in the reports of the Bank Commissioner except for the last three months of the years, 1914, 1916, and 1918. For several years, from 1911 to 1919, quarterly statements were made available to the participant banks and published or summarized in local and regional banking journals. A partial statement for the entire period up to the end of 1922 appears in a report made to the

---

1/ Linwood O. Neal, The History and Development of State Bank Supervision in Oklahoma, p. 71.

Oklahoma House of Representatives.[1] Some additional information is available in surveys of deposit guaranty plans made by students and agencies outside the State.[2]

Information is given in the published reports of the Bank Commissioner regarding the cost to the guaranty fund of most of the banks that failed during the period 1908-1919. Additional information regarding some of these failures is given by Robb in his book published in 1921.[3] For the failures from January 1, 1920, to the cessation of payments from the fund in October 1921 no information is given in reports of the Bank Commissioner regarding bank failures or the operations of the fund, except the names of banks taken over by the Commissioner during the year 1920.

Considerable additional information has been obtained from surviving records of the fund, consisting of minutes of the State Banking Board and various registers and ledgers, in the office of the Bank Commissioner.[4] These records provide statements of the fund for certain periods, and a complete register of the guaranty fund warrants outstanding from 1911 to 1923, but no file of the quarterly statements of the fund. The minutes of the State Banking Board include an audit of guaranty fund transactions for individual failed banks as of February 9, 1922, showing the amounts advanced by the fund in the respective failed banks, the amounts returned to the fund, and the balance due on that date.

---

1/ House Journal, February 21, 1923, pp. 773-75.

2/ These include Robb, The Guaranty of Bank Deposits (Houghton Mifflin Company, 1921); Thornton Cooke, articles in the Quarterly Journal of Economics, November 1913 and November 1923; Federal Reserve Board, in Federal Reserve Bulletin, September 1925; Blocker, The Guaranty of Bank Deposits (The School of Business, University of Kansas, 1929).

3/ Robb, op. cit., pp. 57-73.

4/ These records were examined by the writer of this report in December 1955.

Another audit, or "inventory," as of October 1930 also provides figures for the amounts paid out in the case of most of the individual failed banks, but not for recoveries or the balances due. An undated volume, apparently prepared at some intervening date, gives asset and liability statements as of date of failure for each bank in which a payment had been made from the guaranty fund, with a few exceptions, together with the amounts paid by and returned to the guaranty fund.

Information regarding the banks that failed between the date of cessation of payments from the fund and the repeal of the law was not found in the surviving records in the Commissioner's office. For these banks the principal source of information is schedules submitted in 1931, prepared from records in the Commissioner's office at that time, to the Federal Reserve Committee on Branch, Group, and Chain Banking.

The data for the individual failed banks from the various sources show some inconsistencies, but for the most part these are relatively small. No data have been found for the amount of deposits in the respective banks subject to the protection of the fund under the provisions of the guaranty law, nor for the amount of guaranteed deposits assumed by banks taking over the business or liquidating the affairs of the failed banks. However, in most of the cases the amount of guaranteed deposits must have been approximately the same as the amount of deposits shown in the statements of the banks at time of closing, excluding cashier's checks, which were not regarded as deposits, and accounts of governments and of banks, which were mostly secured and therefore excluded from guaranty.

The court records pertaining to the final disposition of the fund provide some additional information regarding the fund's operations, particularly as to assessments levied that were not collected, the assets and liabilities of the fund in 1929 when the court proceedings were initiated, the claims approved by the District Court and by the State Supreme Court, and the remaining assets applied to those claims under the decisions of the courts.[1/]

Income, expenses, and indebtedness of the guaranty fund. An estimate of the receipts and expenditures of the Oklahoma depositors' guaranty fund during its entire existence is given in Table 9. The figures take into account receipts and disbursements subsequent to repeal of the law, including the final disposition of the fund in 1934. The estimates in this table exclude borrowings of the fund which were eventually repaid, and also payments to depositors of failed banks made directly from the cash or liquidated assets of those banks.

The total receipts of the fund throughout its entire period of operation, including borrowings from participant banks that were never repaid, amounted to more than $8 million. Nearly half of the receipts were from assessments on the participating banks, about one-fifth from diversion to the fund of assets pledged by the participant banks as a guaranty of payment of future assessments, and about two-fifths from the liquidation of assets of failed banks acquired by the fund. The fund paid out about $7.7 billion to depositors or to banks that assumed the deposits of failed banks, and spent approximately $0.6 million in interest and administrative expenses.

1/ District Court records, case no. 60838, at the Oklahoma City Court House, and Supreme Court records, case no. 24551, at the State Capitol. These records were examined in December 1955.

Table 9. RECEIPTS, EXPENDITURES AND UNPAID OBLIGATIONS OF THE OKLAHOMA DEPOSITORS GUARANTY FUND 1/

| | |
|---|---|
| **Receipts** | |
| Assessments collected to 1925 2/ | $3,729,937 |
| Additional assessments, and securities pledged for payment of future assessments diverted to the fund 3/ | 1,549,402 |
| Total collections from participating banks, including warrants of the fund sold to those banks that were never paid | 5,279,339 |
| Recoveries from assets of failed banks 4/ | 2,913,174 |
| Interest on daily balances 5/ | 23,729 |
| Total receipts 6/ | $8,216,242 |
| **Expenditures** | |
| Payments to depositors of failed banks or to banks for assuming insured deposits 4/ | 7,667,311 |
| Interest on warrants 5/ | 304,016 |
| Operating expenses 7/ | 252,261 |
| Total expenditures 6/ | 8,223,588 |
| **Unpaid obligations** | |
| To depositors of failed banks 8/ | 6,225,437 |

1/ All items are partly estimated.
2/ As given in Federal Reserve Bulletin, September 1925, p. 631. See Table 10.
3/ For method of estimate and component items, see note 6 to Table 10.
4/ Tabulated from data for the individual banks. See Table 11.
5/ Amounts reported in periods for which income and expense data are available, plus estimated amounts for other periods.
6/ Difference between expenditures and receipts is attributable to errors of estimate for the various items.
7/ Warrants issued to January 31, 1923, for salaries, expense of examiners, office supplies, bank robbers and miscellaneous. House Journal, February 21, 1923.
8/ Losses to depositors in banks that failed from cessation of payments by the fund to repeal of the law. See Table 11.

Annual data regarding assessments and the cash balance and indebtedness of the fund are shown in Table 10. The information available does not permit a tabulation by years of the disbursements of the fund, nor of the receipts from assets of failed banks.[1/]

The annual range of assessments ranged from a high of one and one-fifth percent in 1911, when a special assessment of 1 percent was levied, and a low of one-fifth of 1 percent in 1916 and subsequent years, when additional assessments were not permitted. The amounts collected ranged from a maximum of about $600,000 in 1911 to a low of about $90,000 in 1916.

The maximum amount of outstanding warrants, or indebtedness, of the fund prior to the World War I period was $844,000 in June 1914. This was all retired by 1919. The warrant indebtedness arising from the failures of 1920 and 1921, up to the time of cessation of payments from the fund in October 1921, was $2,404,000 at its maximum. This was reduced to about $1,300,000, and remained close to that figure until the final settlement of the affairs of the fund. Unfulfilled obligations to depositors of banks that failed from October 1921 to the repeal of the law in March 1923, as shown in the preceding table, amounted to more than $6 million.

Insured deposits and losses in failed banks, by years. Table 11 gives the estimated amount of insured deposits of the banks that failed each year while participating in deposit guaranty, and the estimated

---

1/ Only about one-half of the quarterly statements, for the period for which they were made available, have been located in banking journals, and some of these are incomplete. Only part of the earlier and later years are covered by statements found in the surviving records of the guaranty fund.

Table 10. RATES AND AMOUNTS OF ASSESSMENT, CASH BALANCE, AND WARRANTS OUTSTANDING, OKLAHOMA DEPOSITORS GUARANTY FUND, BY YEARS

| Year | Rate of assessment (percent of deposits) 1/ | Amount of assessment 2/ | Cash balance (end of year) 3/ | Warrants outstanding (end of year) 4/ |
|---|---|---|---|---|
| Total | | $5,279,339 | | |
| 1908 | 1.00 | 198,837 | 5/ | 5/ |
| 1909 | .95 | 327,388 | 5/ | 5/ |
| 1910 | .20 | 285,433 | 5/ | 5/ |
| 1911 | 1.20 | 600,538 | $61,120 | $318,847 |
| 1912 | .95 | 511,054 | 72,510 | 146,000 |
| 1913 | .40 | 201,825 | 15,131 | 660,889 |
| 1914 | .40 | 148,084 | 44,714 | 768,682 |
| 1915 | .40 | 161,817 | 77,703 | 680,009 |
| 1916 | .20 | 89,964 | 153,738 | 666,379 |
| 1917 | .20 | 133,356 | 35,560 | 389,936 |
| 1918 | .20 | 208,800 | 45,691 | 136,961 |
| 1919 | .20 | 231,962 | 371,536 | none |
| 1920 | .20 | 301,658 | 5/ | 588,534 |
| 1921 | .20 | 246,771 | 103,697 | 2,222,118 |
| 1922 | .20 | | 5/ | 1,413,246 |
| 1923 | .20 | 82,451 | 5/ | 1,303,916 |
| Additional 6/ | | 1,549,402 | | |

1/ Includes regular and special assessments. These rates were applied to average daily deposits during the preceding year, except in the case of the initial assessment which was applied to deposits as of December 11, 1907. Rates for 1908-1920 from Robb, The Guaranty of Bank Deposits, p. 73; for 1921-1923, according to provisions of law.

2/ For 1908-1920 amount of assessments levied, Federal Reserve Bulletin, September 1925, p. 631, originally derived from Robb, op. cit., p. 73. Assessments collected for these years probably did not differ greatly from the amount levied though there were some refunds and adjustments. For 1921-1922, estimated as the difference between net collections (i.e., total collections less refunds and adjustments) to the end of 1922 from House Journal, February 21, 1923, amounting to $3,647,486, less the total levied for the years 1908-1920, amounting to $3,400,715. For 1923, difference between total assessments collected to 1925 as given in the Federal Reserve Bulletin, op. cit., amounting to $3,729,937, and the net collections to the end of 1922. Most of the assessment levied in 1923 remained unpaid. Assessments due at the time of repeal of the law, as given in court records pertaining to the disposition of the fund, amounted to $109,928. For the amount indicated in this table as "additional" see note 6.

Notes to Table 10.

3/ From quarterly statements of the fund published in banking journals and in the Bank Commissioner's reports, and statements for the fund for certain periods in the surviving records in the Bank Commissioner's office. The figures indicated for 1919 and 1921 are for May 31, 1920, and February 9, 1922, respectively.

4/ From warrant register in the surviving records in the Bank Commissioner's office. The maximum amount of warrants outstanding in 1914 was $844,342 in June, and the maximum outstanding in 1921 was $2,403,618 in November.

5/ Not available.

6/ Includes: (a) $10,064 of assessments due by banks to which securities posted as security for payment of future assessments were returned under the court decision regarding settlement of the fund and which were required to be paid as a condition for such return; (b) $395,224 of guaranty fund warrants deposited as security for payment of future assessments which were cancelled by the State Banking Board because the banks concerned had nationalized or liquidated; (c) $31,000 of other securities deposited as security for payment of assessment by banks that had nationalized which were sold for cash by the State Banking Board; and (d) $1,113,114 of guaranty fund warrants outstanding at the time of final settlement of the affairs of the fund which were never paid. The last item is included because almost all these warrants were owned by the participating banks and deposited as security for payment of future assessments with the cash derived from their sale having been used by the guaranty fund, and thus in effect represented an additional final assessment upon such banks. By the time of settlement of the affairs of the fund almost all of the guaranty fund warrants which had been issued to depositors of failed banks or to successor or absorbing banks had been retired and were no longer outstanding.

Table 11. INSURED DEPOSITS, AND OBLIGATIONS TO DEPOSITORS OF FAILED BANKS PAID AND UNPAID, OKLAHOMA DEPOSITORS GUARANTY FUND, BY YEARS, 1908-1923

| Year or period of failure | Insured deposits 1/ | Insured deposit obligations paid and unpaid | | | | |
|---|---|---|---|---|---|---|
| | | Paid directly from liquidation of assets 2/ | Paid by fund | | | Unpaid (loss to depositors) 4/ |
| | | | Total | Recovered from liquidation of assets 3/ | Not recovered from liquidation of assets (loss to fund) 4/ | |
| Total | $25,067,885 | $11,175,137 | $7,667,311 | $2,913,174 | $4,754,137 | $6,225,437 |
| Subtotals | | | | | | |
| 1908-1919 | 8,573,019 | 4,120,026 | 4,452,993 | 2,010,163 | 2,442,830 | -- |
| Jan. 1920-Oct. 1921 | 5,537,038 | 2,264,142 | 3,172,539 | 903,011 | 2,269,528 | 100,357 |
| Nov. 1921-March 1923 | 10,957,828 | 4,790,969 | 41,779 | -- | 41,779 | 6,125,080 |
| 1908 | 36,745 | 11,781 | 24,964 | 24,964 | -- | -- |
| 1909 | 1,741,078 | 61,156 | 1,679,922 | 1,064,289 | 615,633 | -- |
| 1910 | 587,959 | 313,082 | 274,877 | 34,250 | 240,627 | -- |
| 1911 | 1,065,149 | 294,981 | 770,168 | 230,577 | 539,591 | -- |
| 1912 | 534,837 | 312,209 | 222,628 | 72,778 | 149,850 | -- |
| 1913 | 1,715,525 | 798,443 | 917,082 | 388,498 | 528,584 | -- |
| 1914 | 451,124 | 202,178 | 248,946 | 88,120 | 160,826 | -- |
| 1915 | 332,463 | 198,720 | 133,743 | 46,544 | 87,199 | -- |
| 1916 | 40,337 | 37,837 | 2,500 | -- | 2,500 | -- |
| 1917 | 84,217 | 84,217 | -- | -- | -- | -- |
| 1918 | 1,077,546 | 1,028,628 | 48,918 | 14,389 | 34,529 | -- |
| 1919 | 906,039 | 776,794 | 129,245 | 45,754 | 83,491 | -- |
| 1920 | 2,008,581 | 686,646 | 1,321,935 | 309,887 | 1,012,048 | -- |
| 1921 | 5,415,002 | 1,994,874 | 1,878,083 | 593,124 | 1,284,959 | 1,542,045 |
| 1922 | 8,033,344 | 3,791,672 | 14,300 | -- | 14,300 | 4,227,372 |
| 1923 | 1,037,939 | 581,919 | -- | -- | -- | 456,020 |

Notes to Table 11.

1/ Estimated as the deposits at date of failure, excluding cashier's checks and accounts of governments and banks (tabulated from statements for the individual banks in the surviving records of the guaranty fund, with estimates for a few cases for which such statements are unavailable), or as the amount paid by the fund if in excess of the foregoing.

2/ For banks with deposits assumed by another bank or paid from the fund, residual between the estimated insured deposits and the payment by the fund. For banks with no payment from the guaranty fund, recoveries from liquidation as reported to the Federal Reserve Committee on Branch, Group and Chain Banking in 1931.

3/ From data for the individual banks in the surviving records of the fund, with an allowance for recoveries subsequent to repeal of the law derived from data for the status of the fund.

4/ Balance of the estimated insured deposits.

eventual recoveries and losses on those deposits. Table 12 shows for each year the percentage of the deposits of the failed banks estimated to have been insured, and of the insured deposits the percentages paid by the guaranty fund and recovered from the liquidation of assets.

For the years, 1908-1919, over 70 percent of the insured deposits in the failed banks were eventually paid directly or indirectly from liquidation of the assets of the failed banks. But in subsequent failures, to the repeal of the law, recoveries from liquidation of assets amounted only to about one-half of the insured deposits. The difference between the 1908-1919 and the 1920-1923 failures is doubtless due in part to the great decline in prices and property values associated with the depression of 1921 and the continued adversities of agriculture. In part, however, the difference between the two periods should be attributed to the deterioration in the quality of bank supervision and the handling of the Bank Commissioner's office.

Information is not available regarding the recoveries and losses on secured deposits and cashier's checks, which were not covered by the guaranty. However, up to the time of cessation of payments by the guaranty fund, such losses were negligible, because successor or absorbing banks usually assumed all the liabilities of the closed bank, or if not, the fund assumed the remainder. For the banks closed in 1922 and 1923, and not taken over by another bank, some losses may have been incurred on secured deposits, because the pledged collateral may have been disposed of at a loss, and losses on cashier's checks were presumably at the same percentages as on insured deposits.

Table 12. PERCENTAGE OF DEPOSITS INSURED, AND PERCENTAGE OF INSURED DEPOSITS PAID BY GUARANTY FUND AND RECOVERED FROM LIQUIDATION OF ASSETS, BANK FAILURES UNDER THE OKLAHOMA DEPOSIT INSURANCE SYSTEM, BY YEARS

| Year or period of failure | Percentage of total deposits insured | Percentage of insured deposits | | | | |
|---|---|---|---|---|---|---|
| | | Total | Paid directly from liquidation of assets | Paid by guaranty fund | | Unpaid (loss to depositors) |
| | | | | Recovered from assets | Not recovered; i.e., loss to fund | |
| Total | 85.0 | 100.0 | 44.6 | 11.6 | 19.0 | 24.8 |
| Subtotals | | | | | | |
| 1908-1919 | 79.8 | 100.0 | 48.1 | 23.4 | 28.5 | -- |
| Jan. 1920-Oct. 1921 | 103.6 | 100.0 | 40.9 | 16.3 | 41.0 | 1.8 |
| Nov. 1921-March 1923 | 81.7 | 100.0 | 43.7 | -- | .4 | 55.9 |
| 1908 | 100.0 | 100.0 | 32.1 | 67.9 | -- | -- |
| 1909 | 60.6 | 100.0 | 3.5 | 61.1 | 35.4 | -- |
| 1910 | 88.9 | 100.0 | 53.2 | 5.8 | 40.9 | -- |
| 1911 | 93.1 | 100.0 | 27.7 | 21.6 | 50.7 | -- |
| 1912 | 81.5 | 100.0 | 58.4 | 13.6 | 28.0 | -- |
| 1913 | 86.1 | 100.0 | 46.5 | 22.6 | 30.8 | -- |
| 1914 | 90.0 | 100.0 | 44.8 | 19.5 | 35.7 | -- |
| 1915 | 92.2 | 100.0 | 59.8 | 14.0 | 26.2 | -- |
| 1916 | 100.0 | 100.0 | 93.8 | -- | 6.2 | -- |
| 1917 | 99.1 | 100.0 | 100.0 | -- | -- | -- |
| 1918 | 89.6 | 100.0 | 95.5 | 1.3 | 3.2 | -- |
| 1919 | 76.6 | 100.0 | 85.7 | 5.0 | 9.2 | -- |
| 1920 | 84.6 | 100.0 | 34.2 | 15.4 | 50.4 | -- |
| 1921 | 83.2 | 100.0 | 36.8 | 11.0 | 23.7 | 28.5 |
| 1922 | 95.6 | 100.0 | 47.2 | -- | .2 | 52.6 |
| 1923 | 71.1 | 100.0 | 56.1 | -- | -- | 43.9 |

For the entire period during which the guaranty law was on the statute books, about 56 percent of the insured deposits, and more than 60 percent of the total deposits of the failed banks were eventually paid from the proceeds of liquidation of the assets of those banks. The guaranty fund provided additional recoveries equivalent to 16 percent of the total deposits of the failed banks.

Comparison of assessment receipts and losses in failed banks. Table 13 compares the amount of assessments levied or collected each year with the eventual net loss to the guaranty fund or, after cessation of payments from the fund, to depositors in the banks that failed in that year. The figures are also shown cumulatively, with the cumulative excess or deficiency of assessments. Such an excess or deficiency, it should be noted, is a different concept than that of the accumulated surplus or deficit of the fund. It does not take account of interest paid or accrued on the fund's indebtedness, nor the amounts used or needed to pay depositors that were eventually recovered or recoverable from liquidation of the assets of the failed banks. What the deficiency figures in this table show is the additional assessment that would have been necessary to have paid all insured deposits without incurring interest costs or other expenses.

For the first twelve years of the fund, except for 1909 and 1910, there was a cumulative excess of receipts. This was achieved because the heavy losses of the fund during its early years were met by large special assessments in 1909, 1911, and 1912. By the end of 1919, with smaller special assessments during the years 1913-1915 and none thereafter, the cumulative excess of assessments over losses amounted to about $650,000.

Table 13. ANNUAL ASSESSMENT RECEIPTS, LIABILITY FOR DEPOSITS IN FAILED BANKS, AND CUMULATIVE DEFICIENCY, OKLAHOMA DEPOSITORS' GUARANTY FUND

| Year | Assessments collected 1/ | Net deposit liability of the fund 2/ | Cumulative | | | |
|---|---|---|---|---|---|---|
| | | | Assessment receipts | Deposit liability of the fund | Excess of receipts | Deficiency (excess liability) |
| 1908 | $198,837 | -- | $198,837 | -- | $198,837 | -- |
| 1909 | 327,388 | $615,633 | 526,225 | $615,633 | -- | $89,408 |
| 1910 | 285,433 | 240,627 | 811,658 | 856,260 | -- | 134,010 |
| 1911 | 600,538 | 539,591 | 1,412,196 | 1,395,851 | 16,345 | -- |
| 1912 | 511,054 | 149,850 | 1,923,250 | 1,545,701 | 377,549 | -- |
| 1913 | 201,825 | 528,584 | 2,125,075 | 2,074,285 | 50,790 | -- |
| 1914 | 148,084 | 160,826 | 2,273,159 | 2,235,111 | 38,048 | -- |
| 1915 | 161,817 | 87,199 | 2,434,976 | 2,322,310 | 112,666 | -- |
| 1916 | 89,964 | 2,500 | 2,524,940 | 2,324,810 | 200,130 | -- |
| 1917 | 133,356 | -- | 2,658,296 | 2,324,810 | 333,486 | -- |
| 1918 | 208,800 | 34,529 | 2,867,096 | 2,359,339 | 507,757 | -- |
| 1919 | 231,962 | 83,491 | 3,099,058 | 2,442,830 | 656,228 | -- |
| 1920 | 301,658 | 1,012,048 | 3,400,716 | 3,454,878 | -- | 54,162 |
| 1921 | 246,771 | 2,827,004 | 3/ | 6,281,882 | -- | 3/ |
| 1922 | | 4,241,672 | 3,647,487 | 10,523,554 | -- | 6,876,067 |
| 1923 | 82,451 | 456,020 | 3,729,938 | 10,979,574 | -- | 7,249,636 |
| Additional | 1,549,402 | -- | 5,279,340 | 10,979,574 | -- | 5,700,234 |

1/ From Table 10.

2/ Deposits paid from the fund, adjusted for recoveries, plus deposits unpaid (loss to depositors). From last two columns of Table 11.

3/ Not available.

However, a part of this had been used to pay expenses and interest on warrants, so that the cash balance of the fund in May 1920, when no warrants were outstanding, was only about $370,000. This was less than one-fifth of 1 percent of the deposits in the participating banks, whereas the original law contemplated that the fund would always be restored, by special assessments, to a figure equal to 1 percent of the deposits of the participating banks.

The large losses in the failures from the latter part of 1920 to the repeal of the law, together with the limitation of assessments to the regular rate of one-fifth of 1 percent per year, resulted in a rapidly mounting cumulative deficiency relative to losses. By the date of repeal of the law, it had reached more than $7 million. If the warrants of the fund and other securities deposited by participating banks as surety for payment of future assessments that were forfeited to the fund or never repaid are treated as additional assessments, the final deficiency of the assessments relative to losses was somewhat less than $6 million.

In Table 14 the rate of assessment levied each year, and the amount collected per $100 of deposits in the participating banks, are compared with the rate that would have been necessary to meet the eventual losses from the failures in that year. During the first five years of the system the collections, because of the initial levy and the special assessments, averaged nearly nine-tenths of 1 percent of deposits in the participating banks. Had this average been maintained until the date of repeal of the law, it would have been sufficient to meet all the losses in the failed banks, including the abnormally large losses of the early

Table 14. COMPARISON OF ANNUAL RATES OF ASSESSMENT WITH RATES REQUIRED TO MEET DEPOSIT OBLIGATIONS IN FAILED BANKS, OKLAHOMA DEPOSITORS' GUARANTY FUND, BY YEARS, 1908-1923

| Year | Assessment rate per $100 of deposits | Per $100 of deposits in participating banks at beginning of year | | Per $100 of total capital accounts in participating banks at middle of year | |
|---|---|---|---|---|---|
| | | Assessments collected 1/ | Losses on deposits in failed banks 2/ | Assessments collected 3/ | Losses on deposits in failed banks 3/ |
| 1908-1923 average | $0.44 | $0.41 | $0.86 | $2.52 | $5.24 |
| 1908 | 1.00 | 1.06 | -- | 2.47 | -- |
| 1909 | .95 | 1.04 | 1.95 | 2.78 | 5.22 |
| 1910 | .20 | .52 | .44 | 2.04 | 1.72 |
| 1911 | 1.20 | .98 | .88 | 4.84 | 4.34 |
| 1912 | .95 | 1.16 | .34 | 4.26 | 1.25 |
| 1913 | .40 | .44 | 1.15 | 1.80 | 4.71 |
| 1914 | .40 | .32 | .35 | 1.36 | 1.48 |
| 1915 | .40 | .36 | .19 | 1.48 | .80 |
| 1916 | .20 | .19 | .01 | .82 | .02 |
| 1917 | .20 | .16 | -- | 1.10 | -- |
| 1918 | .20 | .15 | .03 | 1.45 | .24 |
| 1919 | .20 | .19 | .07 | 1.42 | .51 |
| 1920 | .20 | .16 | .53 | 1.50 | 5.04 |
| 1921 | .20 | .09) | 1.76 | .75) | 13.97 |
| 1922 | .20 | ) | 3.77 | ) | 33.54 |
| 1923 | .20 | .11 | 2.44 4/ | .71 | 15.67 4/ |
| Additional | | 2.07 5/ | | 13.31 5/ | |

1/ Computed from assessment receipts (Table 13) and deposits in participating (i.e., State) banks in Table 4.

2/ Computed from deposits paid from the fund, adjusted for recoveries, plus deposits unpaid (loss to depositors) from Table 13 and deposits in participating banks (Table 4).

3/ Total capital accounts used in computing these ratios are from the revised Federal Reserve tabulations.

4/ Annual rates (i.e., four times the rate for failures occurring prior to March 31, 1923).

5/ Relative to deposits and capital accounts as of December 31, 1922, and June 30, 1923, respectively.

1920's. Had the guaranty law remained in its original form or as amended in 1909, under which the special assessments were limited to 2 percent per year, but without the assessment amendments of 1913, it would have survived the impact of the depression of 1921, though borrowing in 1922 and 1923 would have been necessary. If, in addition, the quality of bank supervision and the efficiency of handling the affairs of closed banks had not deteriorated after 1918, it is probable that the fund would not have found borrowing necessary except to pay depositors promptly while proceeding with the liquidation of the affairs of closed banks.

The assessments paid by the banks, including their losses on warrants and other deposited securities, averaged about 2½ percent per year on their capital investment, as measured by their reported total capital accounts. Had all the losses to depositors been met by assessments, the average would have been a little over 5 percent per year on their total capital accounts.

Settlement of the affairs of the guaranty fund. Settlement of the affairs of the guaranty fund, after repeal of the law, was delayed because of pending suits and other problems pertaining to the completion of liquidation of the affairs of the various closed banks. In 1929 litigation was instituted to determine the method of disposition of the remaining assets of the fund, including such collections as had by that time been made from assets of failed banks whose depositors had been paid by the fund. The Bank Commissioner recommended treatment of the remaining assets of the guaranty fund as a trust fund to be distributed pro rata among holders of the outstanding warrants and unpaid depositors of banks that had failed from the time of cessation of payments from the fund to the date of repeal of the law.

The District Court in charge of the litigation set a date by which all claims should be submitted. The claimants who filed claims fell into four classes: (1) holders of the numerically first outstanding and unpaid warrants of the fund, who claimed that under the law they had priority; (2) holders of other outstanding warrants, who contended that because of the insolvency of the fund and repeal of the law the remaining assets should be applied pro rata on all warrants outstanding; (3) banks seeking recovery of securities, other than warrants of the fund, pledged with the Banking Board to secure payment of future assessments; and (4) holders of other claims, mostly for unpaid deposits in certain banks that failed between the date of cessation of payments from the fund and the date of repeal, who claimed they should be paid pro rata with the warrant holders. The District Court appointed a referee to review the claims presented, who conducted numerous hearings over a period of nearly two years. In 1932 the final report of the referee was made and the District Court entered its judgment: (1) that securities, other than warrants, remaining with the Banking Board and pledged to secure payment of future assessments should be returned to the respective banks, provided that those with unpaid assessments prior to repeal of the law were first required to pay the same; and (2) that the approved claims, including all unpaid warrants and other allowed claims, were to share pro rata in the distribution of the assets of the fund. Under this judgment pledged securities, valued at about $110,000, were returned to 65 banks; and it was estimated that a dividend of about 15 percent would be paid on the allowed claims, which included $1,197,000 of unpaid warrants and $375,000 other claims. The small amount of claims other than warrants indicates that only a few of the depositors of the banks that failed subsequent to cessation of payments from the fund presented their claims.

Eight banks, holding some of the earliest-issued outstanding warrants, did not accept the judgment of the District Court, and appealed to the State Supreme Court, holding that those warrants, with interest, should have priority over other claims. The remaining warrant holders accepted the judgment of the District Court. Consequently, a sufficient portion of the remaining assets to meet the claims of the appealing banks was held pending the decision of the State Supreme Court, and the remainder of such assets was used for a pro rata dividend of 7 percent on the rest of the approved claims. This was disbursed in February 1933. In September 1934, the State Supreme Court held that the decision of the District Court had been in error, and ordered the remnant of the fund paid the holders of the earliest-issued warrants who had appealed. The eight banks received about $130,000 on those claims, of which about one-half was the principal of the warrants and about one-half the accumulated interest.[1/]

## APPRAISAL OF THE OKLAHOMA DEPOSIT GUARANTY SYSTEM

The burden of assessments. To bankers in Oklahoma the assessments levied during the first few years of the Depositors' Guaranty Fund appeared to be heavier than could be borne by the banks. They pointed to the fact that the assessments amounted to what they deemed an extremely high percentage of their capital and surplus, averaging during the first six years of the fund approximately 3 percent per year of the total capital and surplus of the banks, and thus presumably absorbing a very large proportion of the profits available for dividends to stockholders.

---

1/ Security Bank and Trust Co., of Miami, Oklahoma, et al., v. Barnett, et al., no. 24551, Supreme Court of Oklahoma, Sept. 11, 1934, 36 Pac. 874.

Whether the assessments did in fact absorb a large proportion of profits which would otherwise have been available for dividends is unknown. No figures of profits or dividends of State banks in Oklahoma during the period are available. Nor is information available regarding the extent to which the limitation on the rate of interest paid on deposits, imposed by the deposit guaranty law, reduced the expenses of operation of the banks.

The problem of making adequate profits is not so much a problem of the magnitude of expenditures which have to be borne by all banks as a part of their cost of business, as it is of the margin between the charges which they can make for their services and the aggregate expenses which they must incur. Since the rate of interest currently charged on loans by the banks in Oklahoma was very high, judged by average rates in eastern money centers or by average rates for the United States as a whole, and the rate of interest paid by the banks on deposits was also comparatively high, and since the latter rates are determined by competition among the banks themselves, it should have been possible for the banks participating in deposit guaranty to have maintained their profit position by reducing the rate of interest paid to depositors.

However, the presence of another group of banks in the State, operating under national rather than under State law, provided a competitive situation which made it difficult for State banks as a group to make these adjustments. For two years prior to 1913, when the law was amended in such a way that adequate assessments could no longer be levied, there had been a substantial tendency for State banks to convert to national banks. The proportion of the total number of banks operating under State law and therefore participating in the deposit guaranty system had declined from 75 percent to 67 percent, and the proportion of aggregate

deposits in the participating banks from 51 percent to 37 percent of all banks in the State.

There is good reason to believe that the guaranty system could have been successful had it embraced all banks operating in the State, and had the original assessment provisions, or those of 1909, been retained. If all banks in the State had been covered, without affecting the quality of bank supervision or other factors determining the number of failures, the necessary assessment rate for the entire 15-year period would have averaged less than four-tenths of 1 percent per year.

High failure rate. The high rate of assessment which would have been necessary to have prevented insolvency of the Oklahoma depositors' guaranty fund was much higher than the rate necessary to have operated a similar fund on a national scale during the same period of time because of the relatively high frequency rate of bank failures in the State. This abnormally high failure rate, as has been noted above, was due in substantial part to deliberate bank mismanagement - sheer dishonesty, participation in unduly speculative enterprises, and overextension of loans to enterprises with which bank officials or favored customers were connected.

It should also be noted that the abnormally high failure record of the larger banks in the system was an important influence in the rate of assessment which would have been necessary to have met the burden falling upon the guaranty fund. Approximately one-fourth of the total loss in failed banks during the 15-year period was incurred in four banks in the larger size groups. The failures of large banks were also responsible for the periods of crisis in the operation of the guaranty fund. The

Columbia Bank and Trust Company, of Oklahoma City, which failed in September 1909, when the guaranty law had been in operation less than two years, had become the largest bank in the system after a mushroom growth which increased its assets and liabilities by sevenfold. Also, it was primarily the failure of the Bank of Commerce, Okmulgee, the second largest bank in the system, at the beginning of November 1921, which increased the outstanding obligations of the guaranty fund so much that guaranty fund warrants could no longer be sold and the fund became inoperative.

Inadequate supervision. The high bank failure rate among participants of the Oklahoma deposit guaranty system could probably have been considerably reduced had there been a continuity of reasonably effective supervision.

The powers of the Bank Commissioner, which have been outlined above, appear sufficient, had they been adequately used, to have checked many of the malpractices of Oklahoma banks. The two examinations required to be made each year, if thoroughly conducted, would have disclosed, long before failure, the conditions described in Robb's account of the affairs of the chief banks which failed. Use of the legal power of the Commissioner to close banks for violation of the banking law by its officers, and more vigorous use of the power to order the removal from office of bank officials found to be dishonest, reckless or incompetent, would have prevented much of the dissipation of bank assets.

During the early years of the system, as shown by Robb's careful study, examinations and supervision were inadequate. Later, after several years of more competent supervision under J. D. Lankford, the

Bank Commissioner's office was not only inefficient but also corrupt. However, the severity of the losses to the guaranty fund in that period should not be attributed solely, or even primarily, to the laxity of bank supervision and the corruption of the Commissioner's office. With the best of supervision, the failures resulting from the collapse of values of the 1921 depression would have been severe.

Nevertheless, one conclusion of vital importance to the success of other systems of deposit guaranty or insurance can be drawn with certainty. That is, that dishonesty, favoritism to special interests, and speculative activities on the part of the largest banks in the system will lead to disaster, and that the supervisory authorities must be alert and vigorous in watching the policies of the banks in which the risk is concentrated.