BANKING ACT OF 1935

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

S. 1715 and H. R. 7617

BILLS TO PROVIDE FOR THE SOUND, EFFECTIVE, AND UNINTERRUPTED OPERATION OF THE BANKING SYSTEM, AND FOR OTHER PURPOSES

[CONSOLIDATED]

APRIL 19 TO JUNE 3, 1935

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BRONSON CUTTING, New Mexico[1]

[1] Death occurred during the progress of the hearings, Monday, May 6, 1935.

CONTENTS

STATEMENTS AND EXHIBITS

BANKING ACT OF 1935

FRIDAY, APRIL 19, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Byrnes, Townsend, Couzens, and Cutting.

Present also: Senator Fletcher.

Senator GLASS (chairman of the subcommittee). The committee will please come to order.

Senator FLETCHER. Mr. Chairman, it might be appropriate at the beginning of your hearings today to insert a letter which I received from the President on February 4, 1935; and following that, the bill. I think that is desirable.

Senator GLASS. I think that would be desirable.

Senator FLETCHER. So I will ask to have inserted this letter addressed to me.

THE WHITE HOUSE,
Washington, February 4, 1935.

Hon. DUNCAN U. FLETCHER,
Chairman Banking and Currency Committee,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: I have had a number of conferences regarding three banking matters which are to some extent interrelated and which affect the Federal Deposit Insurance Corporation, the Federal Reserve System, and the Office of the Comptroller of the Currency. I have discussed these matters with Mr. Leo T. Cromley, Chairman of the Federal Deposit Insurance Corporation; Mr. Marriner S. Eccles, Governor of the Federal Reserve Board; and Mr. J. F. T. O'Connor, Comptroller of the Currency. I have asked the representatives of the various departments and agencies affected to give consideration to the matters discussed.

For the information of your committee they have prepared a tentative draft of legislation and I am asking the gentlemen named to give the benefit of the results of their discussions to you as Chairman of the Banking and Currency Committee of the Senate.

I shall be glad to have you call them before your committee for further information if you desire.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Senator FLETCHER. I assume a similar communication was addressed to Mr. Steagall, chairman of the Banking and Currency Committee of the House; and on February 5 Mr. Steagall introduced the bill in the House. The Senate was in recess on that day, and on February 6 I introduced the bill in the Senate, which may be set forth in your record as the pending bill.

Senator GLASS. Yes.

(The bill, S. 1715, is made a part of the record, in full, as follows:)

[S. 1715, 74th Cong., 1st sess.]

A BILL To provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Banking Act of 1935."

TITLE I

Section 12B of the Federal Reserve Act, as amended (U. S. C., Supp. VII, title 12, sec. 264), is further amended as follows:

1. By striking out subsection (a) and inserting in lieu thereof the following:

"(a) There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the 'Corporation'), which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this section, and which shall have the right to exercise all powers hereinafter granted."

2. By adding at the end of subsection (b) the following:

"In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, the Acting Comptroller of the Currency shall be a member of the board of directors in his place and stead. In the absence of the Comptroller of the Currency any Deputy Comptroller of the Currency may, within the limits prescribed by the Comptroller, act as a member of the board of directors in his place and stead."

3. By inserting a new subsection to read as follows:

"(c) As used in this section—

"(1) The term 'State bank' means any bank, banking association, trust company, savings bank, or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State or the Territories of Hawaii or Alaska or which is operating under the Code of the District of Columbia (except a national bank).

"(2) The term 'State member bank' means any State bank which is a member of the Federal Reserve System, and the term 'State nonmember bank' means any other State bank.

"(3) The term 'District bank' means any State bank operating under the Code of the District of Columbia.

"(4) The term 'national member bank' means any national bank located in the States of the United States, the District of Columbia, or the Territories of Hawaii or Alaska, except a national nonmember bank as hereinafter defined.

"(5) The term 'national nonmember bank' means any national bank located in the Territories of Hawaii or Alaska which is not a member of the Federal Reserve System.

"(6) The term 'mutual savings bank' means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers.

"(7) The term 'insured bank' means any bank the deposits of which are insured in accordance with the provisions of this section, and the term 'noninsured bank' means any other bank.

"(8) The term 'new bank' means a new national banking association organized by the corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions provided in this section.

"(9) The term 'receiver' shall include a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank.

"(10) The term 'board of directors' means the board of directors of the corporation.

"(11) The term 'deposit' means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obligated to give unconditional credit to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, and trust funds as provided in paragraph (5) of subsection (h) of

this section, together with such other obligations of a bank as the board of directors shall find and shall prescribe by its regulations to be deposit liabilities by general usage: *Provided*, That any obligation of a bank which is payable only at an office of the bank located outside the States of the United States, the District of Columbia, and the Territories of Hawaii and Alaska shall not be a deposit for purposes of this section or be included as a part of total deposits or of an insured deposit. The board of directors may by regulation further define the terms used in this paragraph.

"(12) The term 'insured deposit' means such part of the net amount of money due to any depositor for deposits in an insured bank, after deducting offsets, as shall not exceed the maximum prescribed by paragraph (1) of subsection (1) of this section. Such amount shall be determined according to such regulations as the board of directors may prescribe. In determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others, except trust funds which shall be insured as provided in paragraph (5) of subsection (h) of this section.

"(13) The term 'transferred deposit' means a deposit in a new bank or other insured bank made available to a depositor by the corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

"(14) The term 'effective date' means the date of enactment of the title containing this amendment."

4. By striking out in subsection (c) the following: "(c)" and inserting "(d)"; by striking out in said subsection (c) that part of the third sentence following the words "Federal Reserve banks" in said sentence and inserting a period; by striking out in subsection (d) the following: "(d)" and the first four sentences of said subsection (d); and by striking out in the fifth sentence of said subsection the following: "class B"; and by inserting at the end of subsection "(d)" the following: "The capital stock of the corporation shall consist of the shares subscribed for prior to the effective date. Such stock shall be without nominal or par value, and shares issued prior to the effective date shall be exchanged and reissued at the rate of one share for each $100 paid into the corporation for capital stock. The consideration received by the corporation for the capital stock shall be allocated to capital and to surplus in such amounts as the board of directors shall prescribe. Such stock shall have no vote and shall not be entitled to the payment of dividends."

5. By striking out subsection (e) and inserting in lieu thereof the following:

"(e) (1) Every operating member bank, including a bank incorporated since March 10, 1933, licensed on or before the effective date by the Secretary of the Treasury shall be and continue without application or approval an insured bank and shall be subject to the provisions of this section.

"(2) After the effective date any national member bank authorized to commence or resume the business of banking, State bank converting into a national member bank, or State bank becoming a member of the Federal Reserve System shall be an insured bank from the time the certificate herein prescribed shall be issued to the Corporation by the Comptroller of the Currency in the case of such national member bank, or by the Federal Reserve Board in the case of such State member bank. *Provided*, That in the case of an insured bank admitted to membership in the Federal Reserve System or insured State bank converting into a national member bank, such certificate shall not be required, and the bank shall continue as an insured bank. Such certificate shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State member bank, and that consideration has been given to the factors enumerated in subsection (g) of this section."

6. By striking out subsection (f) and inserting in lieu thereof the following:

"(f) (1) Every bank not a member of the Federal Reserve System which on the effective date is a member of the Temporary Federal Deposit Insurance Fund or of the Fund for Mutuals created pursuant to the provisions of an Act approved June 16, 1933 (48 Stat. 168, ch. 89), as amended June 16, 1934 (48 Stat. 969, ch. 546), shall be and continue without application or approval an insured bank and shall be subject to the provisions of this section, unless in accordance with regulations to be prescribed by the board of directors such bank shall give to the corporation within thirty days after the effective date written notice of its election not to continue after June 30, 1935, as an insured bank and shall give to its depositors, by publication or by any reasonable

means, as the board of directors may prescribe, not less than twenty days' notice prior to June 30, 1935, of such election: *Provided*, That any State nonmember bank which was admitted to said Temporary Federal Deposit Insurance Fund or Fund for Mutuals but which did not file on or before the effective date of October 1, 1934, certified statement and make the payment thereon required by law as it existed prior to the effective date, shall cease to be an insured bank on June 30, 1935: *Provided further*, That no bank admitted to the said Temporary Federal Deposit Insurance Fund or the Fund for Mutuals prior to the effective date shall, after June 30, 1935, be an insured bank or have its deposits insured by the corporation, if such bank shall have permanently discontinued its banking operations prior to the effective date. Deposits of the bank giving such notice shall continue to be insured until June 30, 1935, and the rights of the bank shall be as provided by law existing prior to the effective date, and such bank shall not be insured by the Corporation beyond June 30, 1935.

"(2) Until July 1, 1937, any national nonmember bank, on application by the bank and certification by the Comptroller of the Currency in the manner prescribed in subsection (e) of this section and until such date any State nonmember bank, upon application to and examination by the Corporation and approval by the board of directors, may become an insured bank. Before approving the application of any such State nonmember bank, the board of directors shall give consideration to the factors enumerated in subsection (g) of this section and shall determine, upon the basis of a thorough examination of such bank, that its assets in excess of its capital requirements are adequate to enable it to meet all of its liabilities as shown by the books of the bank to depositors and other creditors."

7. By striking out subsection (g) and inserting in lieu thereof the following:

"(g) The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this section."

8. By striking out subsection (h) and inserting in lieu thereof the following:

"(h) (1) The assessment rate shall be one-twelfth of 1 per centum per annum upon the total amount of the liability of the insured bank for deposits (according to the definition of the term 'deposit' in and pursuant to paragraph (11) of subsection (c) of this section, without any deduction for indebtedness of depositors) based on the average determined from such total as of the close of business on the last day of June and the last day of December of each year: *Provided*, That the board of directors from time to time may fix a lower rate or may provide for a refund or credit by a percentage upon the last annual assessment rate not exceeding 50 per centum thereof, when it finds that such action will provide or leave, as the case may be, adequate revenue and reserves for the Corporation having due regard to experience and conditions affecting banks. The rate or percentage so fixed shall be applicable to all insured banks, except that the board of directors on a similar finding, from time to time, may provide that the rate so fixed shall be applicable to insured mutual savings banks only or may provide a different rate applicable to mutual savings banks only.

"(2) On or before the 15th day of July of each year, each insured bank shall file with the corporation a certified statement under oath showing the total amount of its liability for deposits as of the close of business on the 30th day of June last preceding and shall pay to the corporation the portion of the annual assessment equal to one-half of the annual rate fixed by this subsection (h) multiplied by its said total deposits on the date for which such statement is made. On or before the 15th day of January of each year each insured bank shall file a like statement showing the total amount of its liability for deposits as of the close of business on the 31st day of December last preceding, and shall pay to the corporation the portion of the annual assessment equal to one-half of the annual rate fixed by this subsection (h) multiplied by its said total deposits on the date for which such statement is made.

"(3) Every bank which becomes an insured bank after the effective date and on any date more than thirty days before the next succeeding last day of June or December of any year shall pay to the Corporation as an initial assessment the prorated portion for the period between the date such bank became an insured bank and the next succeeding last day of June or December, as the case

may be, of an amount equal to one-half the annual assessment rate provided in this section multiplied by its total deposits at the close of business on the 15th day after it becomes an insured bank. In all other cases the initial assessment upon a bank which becomes an insured bank after the effective date shall be the assessment payable according to paragraphs (1) and (2) of this subsection.

"(4) Each bank which shall be and continue without application or approval an insured bank in accordance with the provisions of subsection (e) or (f) of this section, shall, in lieu of all right to refund, be credited with any balance to which such bank shall become entitled upon the termination of said Temporary Federal Deposit Insurance Fund or the Fund for Mutuals. The credit shall be applied by the corporation toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

"(5) Trust funds held by an insured bank in a fiduciary capacity whether held in its trust or deposited in any other department or in another bank shall be insured subject to a $5,000 limit for each trust estate and when deposited by the fiduciary bank in another insured bank, shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this section, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or beneficiaries of such trust estates: *Provided*, That where the fiduciary bank deposits any of such trust funds in other insured banks, the amount so held by other insured banks on deposit on the last day of the month preceding the filing of the certified statement required by paragraph (2) of subsection (h) of this section for the purpose of such statement shall not be considered to be a deposit liability of the fiduciary bank, but shall be considered a deposit liability of the bank in which such funds are so deposited by such fiduciary bank. The board of directors shall have power by regulation to prescribe the manner of reporting and of depositing such funds."

9. By striking out subsection (i) and inserting in lieu thereof the following:

"(i) (1) Any insured bank (except a national member bank or State member bank) may, upon not less than ninety days' written notice to the Corporation, terminate its status as an insured bank. Wherever the board of directors shall find that an insured bank or its directors or trustees have continued unsafe or unsound practices in conducting the business of such bank or have knowingly or negligently permitted any of its officers or agents to violate repeatedly any provision of this section or of any regulation made thereunder, or of any law or regulation made pursuant to law to which the insured bank is subject, the board of directors shall first give to the Comptroller of the Currency in the case of a national bank or district bank, to the authority having supervision in case of a State bank, and also to the Federal Reserve Board in case of a State member bank, a statement of such violation by the bank for the purpose of securing a correction of such practices or conditions. Unless such correction shall be made within such period of time not exceeding one hundred and twenty days as the Comptroller of the Currency, the State authority, or Federal Reserve Board, as the case may be, shall require, the board of directors, if it shall determine to proceed further, shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, fixing a time and place for a hearing before the board of directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the board of directors shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the board of directors shall find that any ground specified in such notice has been established, the board of directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The Corporation may publish notice of such termination and the bank shall give notice of termination to its depositors, in such manner and at such time as the board of directors may find necessary and may order for the protection of depositors. After termination of the insured status of any bank under the provisions of this paragraph, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals, shall continue for a period of two years to be insured and the bank shall continue to pay to the Corporation assessments as in the case of an insured bank for

such period of two years from such termination, but no additions to any deposits or any new deposits shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall state with equal prominence that additions to deposits and new deposits made after the date of such termination, specifying such date, are not insured. Such bank shall in all other respects be subject to the duties and obligations of an insured bank for the period of two years from such termination and in the event of being closed on account of inability to meet the demands of its depositors within such period of two years, the Corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

"(2) Whenever the insured status of a member bank shall be terminated by action of the board of directors, the Federal Reserve Board in the case of a State member bank shall terminate its membership in the Federal Reserve System in accordance with the provisions of section 9 of the Federal Reserve Act and in the case of a national member bank the Comptroller of the Currency shall appoint a receiver for the bank (to be the Corporation whenever the bank shall be unable to meet the demands of its depositors). Whenever a member bank shall cease to be a member of the Federal Reserve System, its statute as an insured bank shall without notice or other action by the board of directors terminate on the date of the taking effect of the termination of membership of the bank in the Federal Reserve System, with like effect as if terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection (i).

"(3) When the liabilities of an insured bank for deposits shall have been assumed by another bank or banks, the insured status of such insured bank shall terminate on the receipt by the Corporation of satisfactory evidence of such assumption with like effect as if terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection (i): *Provided*, That if such bank gives notice of such assumption within thirty days after such assumption takes effect to its depositors, by publication or by any reasonable means, in accordance with regulations to be prescribed by the board of directors, the insurance of its deposits shall terminate at the end of six months from the date such assumption takes effect and such bank shall be relieved of all future obligations to the Corporation, including the obligation to pay future assessments."

10. By striking out the period at the end of paragraph "Fourth" of subsection (j) and inserting a colon and the following: "*Provided*, That, notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which the Federal Deposit Insurance Corporation shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and the Corporation as defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. No attachment or execution shall be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court."; and by inserting at the end of said subsection the following:

"Eighth. To make examinations of and to require information and reports from banks, as provided in this section.

"Ninth. To act as receiver.

"Tenth. To prescribe by its board of directors such rules and regulations as it may deem necessary to carry out the provisions of this section."

11. By striking out in subsection (k) "(k)" and inserting in lieu thereof "(k) (1)"; and by adding to said subsection 3 new paragraphs to read as follows:

"(2) The board of directors shall appoint examiners, who shall have power on behalf of the Corporation (except as to a District bank) to examine any insured State nonmember bank, State nonmember bank making application to become an insured bank, or closed insured bank, whenever considered necessary. Such examiners shall have like power to examine, with the written consent of the Comptroller of the Currency, any national bank, or District bank and, with the written consent of the Federal Reserve Board, any State member bank. Each examiner shall have power to make a thorough examina-

tion of all of the affairs of the bank and in doing so he shall have power to administer oaths and to examine and take and preserve the testimony of any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of the bank to the Corporation. The board of directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have power to administer oaths and to examine under oath and take and preserve testimony of any persons relating to such claims. Any such examiner or claim agent in relation to any such examination, investigation, or taking of testimony may apply to any judge or clerk of any court of the United States to issue subpenas and to compel the appearance of witnesses and the production and taking of any such testimony and to punish disobedience in like manner as provided in sections 184–186 of the Revised Statutes (U. S. C., title 5, secs. 94–96).

"(3) Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition in such form and at such times as the board of directors may require of such bank. The board of directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the board of directors may require, shall be subject to a penalty of $100 for each day of such failure recoverable by the Corporation for its use.

"(4) The Corporation shall have access to reports of examinations made by and reports of condition made to the Comptroller of the Currency or any Federal Reserve bank, and may accept any report made by or to any commission, board, or authority having supervision of a State nonmember bank (except a District bank), and may furnish to the Comptroller of the Currency, or any such Federal Reserve bank, commission, board, or authority reports of examinations made on behalf of and reports of condition made to the Corporation."

12. By striking out all of subsection (1) preceding the last paragraph thereof and inserting in lieu thereof the following:

"(1) (1) The Temporary Federal Deposit Insurance Fund and the Fund for Mutuals are hereby consolidated into the permanent insurance for deposits created by this section and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation: *Provided*, That the obligations to and rights of the Corporation, depositors, banks, and other persons arising out of any event or transaction prior to the effective date shall remain unimpaired. From the effective date the Corporation shall insure the deposits of all insured banks as defined and provided in this section. The maximum amount of the insured deposit of any depositor shall be $5,000.

"(2) An insured bank shall for the purposes of this section, be deemed to have been closed on account of inability to meet the demands of its depositors in any case where it has been closed for the purpose of liquidation without adequate provision for payment of its depositors.

"(3) Notwithstanding any other provision of law, whenever any insured national bank or insured District bank shall have been closed by action of its board of directors or the Comptroller of the Currency, as the case may be, on account of inability to meet the demands of its depositors, the Comptroller of the Currency shall appoint the Corporation receiver for such closed bank and no other person shall be appointed as receiver of such closed bank.

"(4) It shall be the duty of the Corporation as such receiver to realize upon the assets of such closed bank, having due regard to the condition of credit in the district in which such closed bank is located; to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in conformity with the provisions of law relating to the liquidation of closed national banks, except as herein otherwise provided, retaining for its own account such portion of the amount realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors and paying to depositors and other creditors the net amount available for distribution to them. With respect to such closed bank, the Corporation as such receiver shall have all the rights, powers, and privileges now possessed by or hereafter given a receiver of an insolvent national bank.

"(5) Whenever any insured State bank, except a District bank, shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall accept appointments as receiver thereof, if such appointment be tendered by the authority having supervision of

such bank and be authorized or permitted by State law. With respect to such insured State bank, the Corporation shall possess the powers and privileges given by State law to a receiver of such State bank.

"(6) When an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits shall be made by the Corporation, subject to the provisions of paragraph (7) of this subsection (1), either (a) by making available to each depositor a transferred deposit in a new bank or in another insured bank in the same community in an amount equal to the insured deposit of such depositor and subject to withdrawal on demand, or (b) in accordance with any other procedure adopted by the board of directors: *Provided*, That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim.

"(7) In the case of a closed national bank or District bank the Corporation, upon payment of any depositor as provided in paragraph (6) of this subsection (1), shall become and be subrogated to all rights of the depositor to the extent of such payment. In the case of any other closed insured bank, the Corporation shall not pay any depositor until the right of the Corporation to be subrogated to the rights of such depositor on the same basis as provided in the case of a closed national bank under this section shall have been recognized, by express provisions of State law, by allowance of claims by the authority having supervision of such bank, by assignment of claims by depositors, or by any other effective method. Such subrogation in the case of any closed bank shall include the right to receive the same dividends from the proceeds of the assets of such closed bank as would have been payable to such depositor on a claim for the insured deposit, such depositor retaining his claim for any uninsured portion of his deposit.

"(8) As soon as possible, the Corporation, if it finds that it is advisable and in the interest of the depositors of the closed bank or the public, shall organize a new bank to assume the insured deposits of such closed bank and otherwise to perform temporarily the functions provided for in this section. The new bank shall have its place of business in the same community as the closed bank.

"(9) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the board of directors of the Corporation and who shall be subject to its directions. In other respects such bank shall be organized in accordance with the existing provisions of the law relating to the organization of national bank associations. The new bank may, with the approval of the Corporation, accept new deposits, which shall be subject to withdrawal on demand. The new bank, without application or approval, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district the reserves required by law for member banks, but shall not be required to subscribe for stock of the Federal Reserve bank. Funds of the new bank shall be kept on hand in cash, invested in securities of the Government of the United States, or in securities guaranteed as to principal and interest by the Government of the United States, or deposited with the corporation, or with a Federal Reserve bank, or with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this section and such business as may be incidental to its organization. Notwithstanding any other provision of law it, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(10) On the organization of a new bank, the Corporation shall promptly make available to the new bank an amount equal to the estimated insured deposit of such closed bank plus the amount of its estimated expenses of operation and shall determine as expeditiously as possible the amount due each depositor for his insured deposit in the closed bank, and the total expenses of operation of the new bank. Upon determination thereof, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined. Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment. The new bank shall assume as transferred deposits the payment of the insured deposits of such closed bank to each of its

depositors. Of the amount so made available, the Corporation shall transfer to the new bank, in cash, such amount as is necessary to enable it to meet expenses and immediate cash demands on such transferred deposits and the remainder shall be subject to withdrawal by the new bank on demand.

"(11) When in the judgment of the board of directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the board of directors shall deem advisable, in an amount sufficient, in the opinion of the board of directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 51), for the organization of a national bank in the place where such new bank is located, giving the stockholders of the closed bank the first opportunity to purchase any shares of common stock so offered. Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, he shall issue a certificate of authority to commence business to the bank, which shall thereupon cease to have the status of a new bank and shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law and shall be subject to all of the provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

"(12) If the capital stock of the new bank shall not be offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid in, the board of directors may offer to transfer its business to any insured bank in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the board of directors may deem adequate; or the board of directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided. Unless the capital stock of the new bank is sold or its assets acquired and its liabilities assumed by an insured bank, as provided above, within two years from the date of its organization, the Corporation shall wind up its affairs, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank and thenceforth the Corporation shall be liable for its obligations and be the owner of its assets. The provisions of sections 5220 and 5221 of the Revised Statutes (U. S. C., title 12, sec. 181 and 182) shall not apply to such new banks."

13. By inserting before the said last paragraph of subsection (1) the following: "(n) (1)"; and by striking out the comma after the words "United States" in the first sentence of said paragraph and inserting before the word "except" the following: "or in securities guaranteed as to principal and interest by the Government of the United States,"; and by transposing said paragraph to subsection (n) as amended, as paragraph (1) thereof.

14. By striking out in subsection (m) the following: "(m)"; and by striking out in said subsection the word "herein" and inserting in lieu thereof "in this section"; and by transposing said subsection to subsection (n), as amended, as paragraph (2) thereof.

15. By adding a new subsection to read as follows:

"(m) (1) The Corporation as receiver of a closed national bank or District bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, subject to the approval of the Comptroller of the Currency, and may be paid by it out of funds coming into its possession as such receiver. The Comptroller of the Currency is authorized and empowered to waive and relieve the Corporation from complying with any regulations of the Comptroller of the Currency with respect to receiverships where in his discretion such action is deemed advisable to simplify administration.

"(2) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or the other insured bank shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such

person by the closed bank would have discharged it from liability for the insured deposit.

"(3) Except as otherwise prescribed by the board of directors, neither the Corporation, such new bank, nor such other insured bank, shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said account, where such recognition would increase the aggregate amount of the insured deposits in such closed bank.

"(4) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the bank, or of any liability of such depositor to the bank or its receiver, not offset against a claim due from the bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

"(5) If any depositor in a closed bank shall fail to claim his insured deposit from the Corporation, or shall fail to claim or arrange to continue the transferred deposit with the new bank or other bank assuming liability therefor within one year after the appointment of the receiver for the closed bank, all rights of the depositor against the Corporation in respect to the insured deposit or against the new bank and such other bank in respect to the transferred deposit shall be barred, and all rights of the depositor against the closed bank, its shareholders or the receivership estate to which the Corporation may have become subrogated shall thereupon revert to the depositor. The amount of any transferred deposits not claimed within said one-year period shall be refunded to the Corporation."

16. By striking out in subsection (n) the following: "(n)" and inserting "(3) "; and by retaining said subsection in paragraph (3) of subsection (n), as amended; and by striking out in said subsection (n) the words "member banks which are now or may hereafter become insolvent or suspended" and inserting in lieu thereof "insured banks closed on account of inability to meet the demands of depositors"; and by striking out "State member" and inserting in lieu thereof "insured State"; and by striking out the period at the end of the first sentence and inserting in lieu thereof "or District banks."; and by adding at the end of said subsection two new sentences to read: "The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured bank which is now or may hereafter be closed on account of inability to meet the demands of its depositors. In any case where the Corporation is acting as receiver of such insured bank such loan or purchase shall not be made without approval of a court of competent jurisdiction."; and by adding to subsection (n), as amended, a new paragraph to read as follows:

"(4) Until July 1, 1936, whenever in the judgment of the board of directors such action will reduce the risk or avert a threatened loss to the Corporation and will facilitate a merger or consolidation, or facilitate the sale of the assets of an insured bank to and assumption of its liabilities by another insured bank, the Corporation may, upon such terms and conditions as it may determine, make loans secured by the assets of such insured bank in subordination to the rights of depositors or otherwise, or may purchase such assets, or may guarantee any other insured bank against loss by reason of assuming the liabilities and purchasing the assets of such insured bank. Any insured national bank or District bank or, with the approval of the Comptroller of the Currency, any conservator thereof is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans.

17. By striking out in subsection (o) the following: "(o)", and inserting in lieu thereof "(o) (1)"; and by inserting after the word "empowered" in the first sentence in subsection (o) the following: "with the approval of the Secretary of the Treasury"; by striking out in subsection (o) the words "of its capital" and inserting in lieu thereof "received by the Corporation in payment of its capital stock and of the first annual assessments"; and by adding at the end of subsection (o) two new paragraphs to read as follows:

"(2) The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which secu-

rities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Corporation's obligations hereunder. The Secretary of the Treasury may, at any time, sell any of the obligations of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public-debt transactions of the United States.

"(3) No obligations, contingent or absolute, shall be incurred for the expenditure or other disposition of funds heretofore, hereby, or hereafter appropriated or otherwise obtained for the carrying out of functions of the Corporation unless within estimates of such obligations and expenditures approved by the Director of the Budget; and, to the extent that the Secretary of the Treasury may consider practicable and under such rules and regulations as he may prescribe, there shall be maintained on the books of the Treasury Department such accounts as may be necessary to give full force and effect to this provision: *Provided*, That this paragraph shall not apply to obligations of the Corporation to depositors of banks closed on account of inability to meet the demands of depositors, obligations for expenses of paying its obligations to depositors or expenses of operation of new banks, obligations connected with the powers and duties of the Corporation as receiver, or obligations incurred for the purposes provided in this subsection (n) of this section, or obligations to make the refund provided by law to any bank not a member of the Federal Reserve System electing as provided in subsection (f) of this section not to continue after June 30, 1935, as an insured bank."

18. By adding at the end of subsection (r) the following:

"The board of directors, from time to time, shall gather information and data and shall make investigations and reports upon the organization, operation, closing, reopening, reorganization, and consolidation of banks, banking practices and management, and the security of depositors and adequacy of service to borrowers. The board of directors, in any annual or special report to Congress, shall report its findings and make such recommendations and requests as it shall find necessary and appropriate for the purpose of carrying out the purposes of this section and fully providing for all of the obligations of the Corporation."

19. By inserting in subsection (s) following the words "purchase any assets" the following: "or for the purpose of obtaining the payment of any insured deposit or transferred deposit or the allowance, approval, or payment of any claim,".

20. By striking out in subsection (v) the following: "(v)" and inserting in lieu thereof "(v) (1)"; and by striking out in said subsection "class A stockholder of the Federal Deposit Insurance Corporation" and inserting in lieu thereof "insured bank."

21. By striking out the second paragraph of subsection (v) and inserting in lieu thereof the following:

"(2) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include in advertisements relating to deposits and in forms furnished for use of its depositors as specified by regulations of the board of directors, a statement to the effect that its deposits are insured by the Corporation. The board of directors shall prescribe by regulation the forms of such signs and the manner of display and the forms of such statements and the manner of use. For each day an insured bank continues to violate any provision of this paragraph or any lawful provision of said regulations, it shall be subject to a penalty of $100, which shall be recoverable by the Corporation for its use."

22. By adding to subsection (v) three new paragraphs to read as follows:

"(3) No insured bank shall pay any dividends on its capital stock while it remains in default in the payment of any assessment due to the Corporation; and any director or officer of any insured bank, who participates in the declaration or payment of any such dividend shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(4) Unless, in addition to compliance with other provisions of law, it shall have the prior written consent of the corporation, no insured bank shall enter into any consolidation or merger with any noninsured bank, or assume liability to pay any deposits of any noninsured bank, or transfer assets to any noninsured bank in consideration of the assumption of liability for any portion of its deposits, and no insured State nonmember bank (except a district bank) without such consent shall reduce the amount or retire any part of its

common or preferred capital stock, or retire any part of its capital notes or debentures.

"(5) Each insured bank shall provide such protection and indemnity against burglary, fidelity, and other similar insurable losses as the board of directors by regulation may require adequately to reimburse the bank for such losses. Whenever any insured bank fails to comply with any such regulation the corporation may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

"(6) Whenever an insured bank, except a national bank or district bank, for a period of one hundred and twenty days after written notice of the recommendations of the Corporation, based on a report of examination of such bank by an examiner of the Corporation, shall fail to comply with such recommendations, the Corporation shall have the power, and is hereby authorized, to publish any part of such report of examination in such manner as it may determine: *Provided*, That such notice of intention to make such publication shall be given at the time such recommendations are made, or at any time thereafter and at least ninety days before such publication."

23. By striking out all of subsection (y) preceding the last paragraph thereof and inserting in lieu thereof the following:

"(y) (1) No State nonmember bank, other than (a) a mutual savings bank, or (b) a Morris Plan Bank, or (c) a bank located in the Territories of Hawaii or Alaska, shall become or continue an insured bank after July 1, 1937, and the insured status and insurance of the deposits of each State nonmember bank, other than (a) a mutual savings bank, or (b) a Morris Plan Bank, or (c) a bank located in the Territories of Hawaii or Alaska, shall terminate on July 1, 1937.

"(2) For the purposes of this section, and notwithstanding any other provision thereof, any unincorporated bank which continues to be an insured bank without application or approval under the provisions of paragraph (1) of subsection (f) of this section shall be included in the term 'State bank' and 'State nonmember bank'."

24. By inserting at the beginning of the last paragraph of subsection (y) the following: "(3)."

Title II—Amendments to the Federal Reserve Act

Section 201. (a) Section 4 of the Federal Reserve Act, as amended, is further amended by striking out the paragraph which commences with the words "Class C directors shall be appointed by the Federal Reserve Board" and the next succeeding paragraph, and inserting in lieu thereof the following:

"Class C directors shall be appointed by the Federal Reserve Board. They shall have been for at least two years residents of the districts for which they are appointed, except that this requirement shall not apply to the Governor and Vice Governor of the bank. Each class C director shall hold office for a term of three years except that the Governor's term as a class C director shall expire when he ceases to be Governor of the bank and, if the Vice Governor be designated as a class C director, his term as a class C director shall expire when he ceases to be Vice Governor. One of the directors of class C shall be appointed by the Federal Reserve Board as deputy chairman to exercise the powers of the chairman of the board when necessary. In the case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the Board.

"Effective ninety days after the enactment of the Act containing this amendment, the officers of Governor and chairman of the board of directors of each Federal Reserve bank shall be combined. The Governor shall be the chief executive officer of the bank and shall be appointed annually by the board of directors, subject to the approval of the Federal Reserve Board. He shall not take office until approved by the Federal Reserve Board and thereupon he shall be appointed by the Federal Reserve Board as one of the class C directors of the bank. He shall be ex officio chairman of the board of directors and chairman of the executive committee; and all other officers and employees of the bank shall be directly responsible to him. For each Federal Reserve bank there shall be appointed annually in the same manner as the Governor a Vice Governor, who shall, in the absence or disability of the Governor or during a vacancy in the office of Governor, serve as the chief executive officer of the bank and act as chairman of the executive committee of the bank. He may be appointed by the Federal Reserve Board as a class C director of the bank

and in such case may be appointed as deputy chairman of the board of directors. Whenever a vacancy shall occur in the office of the Governor or Vice Governor of a Federal Reserve bank, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

"Effective ninety days after the enactment of the act containing this amendment, any Federal Reserve agent who shall not have been appointed Governor of the bank shall cease to be a class C director and chairman of the board of directors. All duties prescribed by law for the Federal Reserve agent shall be performed by such person as the Federal Reserve Board shall designate.

"No member of the board of directors of a Federal Reserve bank, other than the Governor and Vice Governor, shall serve as a director for more than two consecutive terms of three years each, but this shall not prevent the present incumbents from serving out the remainders of their present terms."

(b) The last paragraph of such section 4 is amended by striking out the words "Thereafter every director of a Federal Reserve bank chosen as hereinbefore provided shall hold office for a term of three years" and substituting the words "Thereafter each director of class A and each director of class B chosen as hereinbefore provided shall hold office for a term of three years."

SEC. 202. Section 9 of the Federal Reserve Act, as amended, is amended by changing the period at the end of the tenth paragraph thereof to a colon and adding the following: "*Provided further*, That upon application to the Federal Reserve Board at any time prior to July 1, 1937, by any nonmember bank which at the time of such application has been admitted to the benefits of insurance by the Federal Deposit Insurance Corporation under section 12B of this Act, the Federal Reserve Board, in its discretion, in order to facilitate the admission of such bank to membership in the Federal Reserve System, may waive in whole or in part the requirements of this section relating to the amount of capital required of such bank. Such bank shall comply with such requirements within such period or periods after admission as in the Board's judgment shall be reasonable in view of all the circumstances."

SEC. 203. Section 10 of the Federal Reserve Act, as amended, is further amended in the following respects:

(1) By striking out the second sentence of the first paragraph and substituting the following: "In selecting the six appointive members of the Federal Reserve Board the President shall choose persons well qualified by education or experience or both to participate in the formulation of national economic and monetary policies. Not more than one of the appointive members shall be selected from any one Federal Reserve district, except that this limitation shall not apply to the selection of the Governor."

(2) By adding at the end of such first paragraph the following: "The appointive members of the Federal Reserve Board appointed after July 1, 1935, shall each receive a salary at the same rate as that of the heads of executive departments who are members of the President's Cabinet, together with actual necessary traveling expenses. Each appointive member of the Federal Reserve Board heretofore appointed may retire from active service upon reaching the age of seventy or at any time thereafter, and all members hereafter appointed shall retire upon reaching the age of seventy. Each member of the Board so retired from active service who shall have served for at least five years shall receive, during the remainder of his life, retirement pay in an amount equal to the annual salary paid to appointive members prior to the enactment of the Act containing this amendment: *Provided*, That if he shall not have served for as much as twelve years his retirement pay shall be at the rate of one-twelfth of such annual salary for each year and for any fraction of an additional year of such service: *Provided further*, That any member whose term expires after he reaches the age of sixty-five and who is not reappointed shall receive retirement pay upon the same basis as if he had been retired under the provisions of this paragraph. The funds necessary for such retirement pay shall be provided by the Federal Reserve banks in such manner as the Federal Reserve Board shall prescribe."

(3) By striking out the fourth sentence of the second paragraph and inserting in lieu thereof the following: "Of the six appointive members of the Board one shall be designated by the President as Governor and one as Vice Governor of the Federal Reserve Board, to serve as such until the further order of the President, and the provisions of the next preceding sentence of

this paragraph shall not apply to the member designated as Governor. The term of office of the member designated as Governor shall be the period during which he shall continue as Governor and, upon the termination of his designation as Governor, he shall be deemed to have served the full term for which he was appointed."

SEC. 204. Subsection (i) of section 11 of the Federal Reserve Act, as amended, is amended by adding the following at the end thereof: "The Board may assign to designated members of the Board or officers or representatives of the Board, under such rules and regulations, the performance of duties, functions, or services so specified, but any such assignment shall not include the determination of any national or system policy or any power to make rules and regulations or any power which under the terms of this act is required to be exercised by a specified number of members of the Board."

SEC. 205. Effective ninety days after the enactment of this Act, section 12A of the Federal Reserve Act, as amended, is amended to read as follows:

"SEC. 12A. There is hereby created a Federal Open Market Committee (hereinafter referred to as the "Committee"), which shall consist of the Governor of the Federal Reserve Board, who shall be chairman of the Committee, two members of the Federal Reserve Board, selected by the Board, and two governors of the Federal Reserve banks, selected by the governors of the Federal Reserve banks in accordance with procedure prescribed by regulations of the Federal Reserve Board. The terms of the members of the Committee, other than the Governor of the Federal Reserve Board, shall expire at the end of each calendar year. Whenever a vacancy shall occur a successor shall be selected in the same manner as his predecessor was selected. Meetings of the Committee shall be held from time to time upon the call of the Governor, at the request of the Board or of any two members of the Committee, or upon his own initiative.

"The Committee from time to time shall consider, adopt, and transmit to the Federal Reserve banks resolutions setting forth policies which in the judgment of the Committee should be followed with respect to open-market operations of the Federal Reserve banks, and the Federal Reserve banks shall conform their open-market operations to the provisions thereof. The Committee shall aid in the execution of such policies and/or perform such other duties relating thereto as the Federal Reserve Board may prescribe. All open-market operations of the Federal Reserve banks shall be subject to regulations prescribed by the Federal Reserve Board. The Committee from time to time shall also make recommendations to the Federal Reserve Board regarding the discount rates of the Federal Reserve banks."

SEC. 206. Section 13 of the Federal Reserve Act, as amended, is further amended by adding at the end thereof a new paragraph reading as follows:

"Upon the endorsement of any member bank, which shall be deemed a waiver of demand, notice, and protest as to its own endorsement exclusively, and subject to such regulations as to maturities and other matters as the Federal Reserve Board may prescribe, any Federal Reserve bank may discount any commercial, agricultural or industrial paper and may make advances to any such member bank on its promissory notes secured by any sound assets of such member bank."

SEC. 207. Subsection (b) of section 14 of the Federal Reserve Act, as amended, is further amended by changing the semicolon at the end thereof to a colon and adding the following: "*Provided*, That any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities."

SEC. 208. Section 16 of the Federal Reserve Act, as amended, is further amended in the following respects:

(1) By striking out the first ten paragraphs and substituting therefor the following:

"SEC. 16. Each Federal Reserve bank may issue Federal Reserve notes, which shall be obligations of the United States, secured by a first and paramount lien on all of the assets of such bank. Federal Reserve notes shall be issued and retired under such rules and regulations as the Federal Reserve Board may prescribe and shall be legal tender for all purposes.

"Every Federal Reserve bank shall maintain reserves in lawful money (other than Federal Reserve notes or Federal Reserve bank notes) of not less than 35 per centum against its deposits and reserves in gold certificates of not less than 40 per centum against its Federal Reserve notes in actual circulation. Each

Federal Reserve note shall bear upon its face a distinctive letter, which shall be assigned by the Federal Reserve Board to each Federal Reserve bank, and also a serial number.

"When received by the Treasurer of the United States from a source other than a Federal Reserve bank, Federal Reserve notes unfit for further use shall be canceled and retired; and, upon receipt of advice of such cancelation and retirement, the issuing Federal Reserve bank shall reimburse the Treasurer of the United States for the notes so canceled and retired. When received by a Federal Reserve bank, Federal Reserve notes unfit for further use shall be canceled and forwarded to the Treasurer of the United States for retirement; and, if issued by another Federal Reserve bank, such issuing bank shall reimburse the Federal Reserve bank which canceled such notes and forwarded them to the Treasurer of the United States.

"In order to furnish suitable notes for circulation as Federal Reserve notes, the Comptroller of the Currency shall cause plates and dies to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of $5, $10, $20, $50, $100, $500, $1.000, $5,000, and $10,000 as may be required to supply the Federal Reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury and shall bear the distinctive numbers of the several Federal Reserve banks through which they are issued. When such notes have been prepared, they shall be held in the Treasury subject to the order of the Comptroller of the Currency for delivery to the Federal Reserve banks. Federal Reserve notes unfit for circulation shall be returned by the Federal Reserve banks to the Comptroller of the Currency for cancelation and destruction."

(2) By striking from the sixteenth paragraph the words "or Federal Reserve Agent" where they occur in three different places and also the words "or his" and the words "at the Treasury or at the Subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve Agent."

SEC. 209. The sixth paragraph of section 19 of the Federal Reserve Act, as amended, is amended to read as follows:

"Notwithstanding the other provisions of this section, the Federal Reserve Board, in order to prevent injurious credit expansion or contraction, may by regulation change the requirements as to reserves to be maintained against demand or time deposits or both by member banks in any or all Federal Reserve districts and/or any or all of the three classes of cities referred to above."

SEC. 210. The first paragraph of section 24 of the Federal Reserve Act, as amended, is amended to read as follows:

"SEC. 24. Any national banking association may make loans secured by first liens upon improved real estate, including improved farm land and improved business and residential properties. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other instrument upon real estate when the entire amount of such obligation or obligations is made or is sold to such association. The amount of any such loan shall not exceed 60 per centum of the actual value of the real estate offered for security, but no such loan upon such security shall be made for a longer term than three years: *Provided*, That loans may be made in amounts not exceeding 75 per centum of the actual value of the real estate offered for security, if they are required to be completely amortized within periods not exceeding twenty years by means of substantially equal monthly, quarterly, semiannual, or annual payments on principal with interest added or on principal and interest combined. Any bank may make such loans in an aggregate sum equal to the amount of the capital stock of such association paid in and unimpaired plus its unimpaired surplus fund, or equal to 60 per centum of the amount of its time and savings deposits, whichever is the greater: *Provided*, That in computing such aggregate sum there shall be included all such loans on which the bank is liable as endorser, guarantor, or otherwise, and the book value of all real estate owned by the bank directly or indirectly except its banking premises. Nothing contained in this section shall prevent any national banking association from acquiring, as additional security for loans previously made in good faith, second or subsequent liens on real estate or shares or participations in such liens. In the case of loans secured by real estate which are insured under the provisions of title II of the National Housing Act, the restrictions of this section as to

the amount of the loan in relation to the actual value of the real estate and as to the three-year limit on the terms of such loans shall not apply. All loans made hereunder shall be subject to the general limitations contained in section 5200 of the Revised Statutes of the United States. Such banks may continue hereafter as heretofore to receive time and savings deposits and to pay interest on the same, but the rate of interest which such banks may pay upon such time deposits or upon savings or other deposits shall not exceed the maximum rate authorized by law to be paid upon such deposits by State banks or trust companies organized under the laws of the State wherein such national banking association is located. State banks and trust companies which are members of the Federal Reserve System shall not hereafter make new loans secured by real estate except to the same extent and under the same terms and conditions as national banking associations are permitted to do so."

TITLE III—TECHNICAL AMENDMENTS

SECTION 301. Subsection (c) of section 2 of the Banking Act of 1933, as amended, is amended by adding at the end thereof the following paragraph:

"Notwithstanding the foregoing, the term 'holding company affiliate' shall not include any organization which, in the judgment of the Federal Reserve Board, is not engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, and/or trust companies."

SEC. 302. The first paragraph of section 20 of the Banking Act of 1933, as amended, is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That nothing in this paragraph shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business except such as may be incidental to the liquidation of its affairs."

SEC. 303. (a) Paragraph (1) of subsection (a) of section 21 of the Banking Act of 1933, as amended, is amended by adding before the semicolon at the end thereof a colon and the following: "*Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities to the extent permitted to national banking associations by the provisions of section 5136 of the Revised Statutes, as amended (U. S. C., title 12, sec. 24; Supp. VII, title 12, sec. 24): *Provided further*, That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate."

(b) Paragraph (2) of subsection (a) of such section 21 is amended by inserting after the words "to engage to any extent whatever" the words "with others than his or its officers, agents, or employees", and is further amended by adding the following sentence at the end of said paragraph: "The expense of the examinations required hereunder shall be assessed against, and paid by, the institution subject to examination in the manner and with the same effect as provided by section 5240 of the Revised Statutes, as amended (U. S. C., title 12, secs. 484, 485; Supp. VII, title 12, secs. 481–483)."

SEC. 304. Section 22 of the Banking Act of 1933, as amended, is amended by adding at the end thereof the following sentence: "Such additional liability shall cease on July 1, 1937, with respect to shares issued prior to June 17, 1933, by any association which shall be transacting the business of banking on July 1, 1937."

SEC. 305. Section 4 of the Act entitled "An Act to amend section 12B of the Federal Reserve Act so as to extend for one year the temporary plan for deposit insurance, and for other purposes" (48 Stat. 969), approved June 16, 1934, is amended to read as follows:

"SEC. 4. So much of section 31 of the Banking Act of 1933, as amended, as relates to stock ownership by directors, trustees, or members of similar governing bodies of any national banking association or of any State bank or trust company which is a member of the Federal Reserve System is hereby repealed."

SEC. 306. Effective January 1, 1936, section 32 of the Banking Act of 1933, as amended, is amended to read as follows:

"SEC. 32. No officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual,

primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve at the same time as an officer, director, or employee of any member bank except in limited classes of cases in which the Federal Reserve Board may allow such service by general regulations when in the judgment of the Federal Reserve Board it would not unduly influence the investment policies of such member bank or the advice it gives its customers regarding investments."

SEC. 307. (a) The second sentence of paragraph seventh of section 5136 of the Revised Statutes, as amended (U. S. C., Supp VII, title 12, sec. 24), is amended to read as follows: "The business of dealing in investment securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe, but in no event shall the total amount of the investment securities of any one obligor or maker, purchased after this section, as amended, takes effect and held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund."

(b) The fourth sentence of such paragraph seventh is amended to read as follows: "Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation."

SEC. 308. Section 5138 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 51), is amended by adding the following sentence at the end thereof: "No such association shall hereafter be authorized to commence the business of banking until it shall have a paid-in surplus equal to 20 per centum of its capital: *Provided*, That the Comptroller of the Currency may waive this requirement as to a State bank converting into a national banking association."

SEC. 309. The last paragraph of section 5139 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 52), is amended to read as follows:

"After one year from the date of the enactment of the Banking Act of 1933, no certificate evidencing the stock of any such association shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation existing on the date this paragraph takes effect engaged primarily in holding the bank premises of such association, nor shall the ownership, sale, or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation existing on the date this paragraph takes effect engaged primarily in holding the bank premises of such association: *Provided*, That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a national banking association."

SEC. 310. (a) Section 5144 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 61), is amended by inserting before the period at the end of the first sentence thereof a semicolon and the following: "except that such holding company affiliate may without obtaining such permit vote in favor of placing the association in voluntary liquidation".

(b) Such section 5144 is further amended by adding at the end of the first paragraph thereof the following: "Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee, such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares."

(c) The first sentence of the third paragraph of such section 5144 is amended to read: "Any such holding company affiliate may make application to the Federal Reserve Board for a voting permit entitling it to vote the stock controlled by it at any or all meetings of shareholders of such bank or authorizing the trustee or trustees holding the stock for its benefit or for the benefit of its shareholders so to vote the same."

SEC. 311. Section 5154 of the Revised Statutes, as amended (U. S. C., title 12, sec. 35), is amended by adding at the end thereof the following paragraph:

"The Comptroller of the Currency may, in his discretion and subject to such conditions as he may prescribe, permit such converting bank to retain and carry at a value determined by the Comptroller such of the assets of such converting bank as do not conform to the legal requirements relative to assets acquired and held by national banking associations."

SEC. 312. Section 5162 of the Revised Statutes (U. S. C., title 12, sec. 170) is amended by adding at the end thereof the following paragraph:

"The Comptroller of the Currency may designate one or more persons to countersign in his name and on his behalf such assignments or transfers of bonds as require his countersignature."

SEC. 313. The first two sentences of section 5197 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 85), are amended to read as follows: "Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the association is located, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the association is located, whichever may be the greater, and no more, except that where, by the laws of any State, a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this title. When no rate is fixed by the laws of the State, or Territory, or District, the association may take, receive, reserve, or charge a rate not exceeding 7 per centum, or 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the association is located, whichever may be the greater, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run: *Provided*, That the maximum amount to be charged at a branch of an association located outside of the States of the United States and the District of Columbia shall be at the rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession, or other political subdivision where the branch is located."

SEC. 314. Section 5199 of the Revised Statutes (U. S. C., title 12, sec. 60), is amended to read as follows:

"SEC. 5199. The directors of any association may, semiannually, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend on its shares of common stock, carry not less than one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall equal the amount of its common capital."

SEC. 315. Section 5209 of the Revised Statutes (U. S. C., title 12, sec. 592), is hereby amended by inserting after the words, "known as the Federal Reserve Act", the words "or of any insured bank as defined in subsection (c) of section 12B of the Federal Reserve Act"; and by inserting after the words "such Federal Reserve bank or member bank", wherever they appear in such section, the words "or insured bank"; and by inserting after the words "or the Comptroller of the Currency", the words, "or the Federal Deposit Insurance Corporation,".

SEC. 316. Section 5220 of the Revised Statutes (U. S. C., title 12, sec. 181), is amended by adding at the end thereof the following paragraph:

"The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the majority of the stock, remove the liquidating agent or committee. The Comptroller of the Currency is authorized to have an examination made at any time into the affairs of the liquidating bank until the claims of all creditors have been satisfied, and the expense of making such examinations shall be assessed against such bank in the same manner as in

the case of examinations made pursuant to section 5240 of the Revised Statutes, as amended (U. S. C., title 12, secs. 484, 485; Supp. VII, title 12, secs. 481–483)."

SEC. 317. Section 5243 of the Revised Statutes (U. S. C., title 12, sec. 583) is amended to read as follows:

"SEC. 5243. The use of the word 'national' either alone or in combination with other words or syllables, as part of the name or title used by any person, corporation, firm, partnership, business trust, association, or other business entity doing the business of bankers, brokers, or trust or savings institutions is prohibited except where such institution is organized under the laws of the United States or is otherwise permitted by the laws of the United States to use such name or title or is lawfully using such name or title on the date when this section, as amended, takes effect."

SEC. 318. Section 5 of the Federal Reserve Act, as amended, is amended by striking out the last two sentences thereof and inserting in lieu thereof the following: "When a member bank reduces its capital stock or surplus it shall surrender a proportionate amount of its holdings in the capital stock of said Federal Reserve bank. Any member bank which holds capital stock of a Federal Reserve bank in excess of the amount required on the basis of 6 per centum of its paid-up capital stock and surplus shall surrender such excess stock. When a member bank voluntarily liquidates it shall surrender all of its holdings of the capital stock of said Federal Reserve bank and be released from its stock subscription not previously called. In any such case the shares surrendered shall be canceled and the member bank shall receive in payment therefor, under regulations to be prescribed by the Federal Reserve Board, a sum equal to its cash-paid subscriptions on the shares surrendered and one-half of 1 per centum a month from the period of the last dividend, not to exceed the book value thereof, less any liability of such member bank to the Federal Reserve bank."

SEC. 319. The fifth paragraph of section 9 of the Federal Reserve Act, as amended, is amended by adding at the end thereof the following sentence: "Such reports of condition shall be in such form and shall contain such information as the Federal Reserve Board may require and shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe."

SEC. 320. The first sentence of paragraph (m) of section 11 of the Federal Reserve Act, as amended, is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That with respect to loans represented by obligations in the form of notes secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, such limitation of 10 per centum on loans to any person shall not apply, but State member banks shall be subject to the same limitations and conditions as are applicable in the case of national banks under paragraph (8) of section 5200 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 84)."

SEC. 321. The third paragraph of section 13 of the Federal Reserve Act, as amended, is amended by changing the words "indorsed and otherwise secured to the satisfaction of the Federal Reserve bank" in that paragraph to read "indorsed and/or otherwise secured to the satisfaction of the Federal Reserve bank."

SEC. 322. Subsection (e) of section 13b of the Federal Reserve Act, as amended, is amended by striking out "upon the date this section takes effect", and inserting in lieu thereof "on and after June 19, 1934"; and by striking out "the par value of the holdings of each Federal Reserve bank of Federal Deposit Insurance Corporation stock" and inserting in lieu thereof "the amount paid by each Federal Reserve bank for Federal Deposit Insurance Corporation stock."

SEC. 323. (a) The first paragraph of section 19 of the Federal Reserve Act, as amended, is amended to read as follows:

"SEC. 19. The Federal Reserve Board is authorized, for the purposes of this section, to define the terms 'demand deposits', 'gross demand deposits', 'deposits payable on demand', 'time deposits', 'savings deposits', and 'trust funds', to determine what shall be deemed to be a payment of interest, and to prescribe such rules and regulations as it may deem necessary to effectuate the purposes of this section and prevent evasions thereof."

(b) The tenth paragraph of such section 19 is amended to read as follows:

"In estimating the reserve balances required by this Act, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks), includ-

ing cash items with Federal Reserve banks and other banks in process of collection, checks on other banks in the same place, and exchanges for clearing houses."

(c) The last two paragraphs of such section 19 are amended to read as follows:

"No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided*, That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: *Provided further*, That this paragraph shall not apply (1) to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia; (2) to any deposit made by a mutual savings bank; (3) to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law; or (4) to any deposit of funds by the United States, and Territory, District, or possession thereof (including the Philippine Islands) or any public instrumentality or agency of the foregoing, with respect to which interest is required by law to be paid.

"The Federal Reserve Board shall from time to time limit by regulation the rate of interest which may be paid by member banks on time and savings deposits; may classify time and savings deposits according to maturities, locations of banks, conditions respecting receipt, withdrawal, or repayment, or otherwise as it may deem necessary in the public interest; and may prescribe different rates for deposits of different classes. No member bank shall pay any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Federal Reserve Board, or waive any requirements of notice before payment of any savings deposit except as to all savings deposits having the same requirement: *Provided*, That the provisions of this paragraph shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. Every bank whose deposits are insured under the provisions of section 12B of this Act (except mutual savings banks and Morris Plan banks which are not members of the Federal Reserve System) shall comply with the provisions of this paragraph and the paragraph immediately preceding and with the rules and regulations prescribed by the Federal Reserve Board pursuant thereto."

(d) At the end of such section 19 there is added the following new paragraph:

"Notwithstanding the provisions of section 7 of the First Liberty Bond Act, as amended, section 8 of the Second Liberty Bond Act, as amended, and section 8 of the Third Liberty Bond Act, as amended, member banks shall be required to maintain the same reserves against deposits of public moneys by the United States as they are required by this section to maintain against other deposits."

SEC. 324. Section 21 of the Federal Reserve Act, as amended, is amended by adding at the end thereof the following paragraph:

"Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Federal Reserve Board or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board or Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank."

SEC. 325. (a) Subsection (a) of section 22 of the Federal Reserve Act, as amended, is amended by inserting in the first paragraph thereof after "No member bank" the following: "and no insured bank is defined in subsection (c) of section 12B of this Act"; by inserting before the period at the end of the first sentence of such paragraph "or assistant examiner who examines or has authority to examine such bank"; and by inserting after "any member bank" in the second paragraph thereof "or insured bank"; by inserting before the period at the end thereof "or Federal Deposit Insurance Corporation examiner"; and by adding at the end of such subsection a new paragraph, as follows:

"The provisions of this subsection shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, whether appointed by the Comptroller of the Currency, by the Federal Reserve Board, by a Federal Reserve agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank."

(b) Subsection (b) of section 22 is amended by inserting therein after "no national bank examiner" the following: "and no Federal Deposit Insurance Corporation examiner"; and by inserting after "member bank" the following: "or insured bank"; and by inserting after "from the Comptroller of the Currency" the following "or from the Federal Deposit Insurance Corporation,".

(c) Subsection (g) of such section 22 is amended to read as follows:

"(g) No executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers: *Provided*, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than five years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank. If any executive officer of any member bank borrow from or if he be or become indebted to any bank other than a member bank of which he is an executive officer, he shall make a written report to the board of directors of the member bank of which he is an executive officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this subsection. Nothing contained in this subsection shall prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of such bank any loan or other asset which shall have been previously acquired by such bank in good faith or from incurring any indebtedness to such bank for the purpose of protecting such bank against loss or giving financial assistance to it. The Federal Reserve Board is authorized to define the term 'executive officer', to determine what shall be deemed to be a borrowing, indebtedness, loan, or extension of credit, for the purpose of this subsection, and to prescribe such rules and regulations as it may deem necessary to effectuate the provisions of this subsection in accordance with its purposes and to prevent evasions of such provisions. Any executive officer of a member bank accepting a loan or extension of credit which is in violation of the provisions of this subsection shall be subject to removal from office in the manner prescribed in section 30 of the Banking Act of 1933: *Provided*, That for each day that a loan or extension of credit made in violation of this subsection exists, it shall be deemed to be a continuation of such violation within the meaning of said section 30."

SEC. 326. The third paragraph of section 23A of the Federal Reserve Act, as amended, is amended to read as follows:

"For the purpose of this section, the term 'affiliate' shall include holding company affiliates as well as other affiliates, and the provisions of this section shall not apply to any affiliate (1) engaged primarily in holding the bank premises of the member bank with which it is affiliated or in maintaining and operating properties acquired for banking purposes prior to the date this section, as amended, takes effect; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or live-stock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 25 of the Federal Reserve Act, as amended, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (4) organized under section 25 (a) of the Federal Reserve Act, as amended, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (5) engaged solely in holding obligations of the United

States Government, the Federal intermediate credit banks, the Federal land banks, the Federal home-loan banks, or the Home Owners' Loan Corporation; (6) where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship; or (7) where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a member bank as executor, administrator, trustee, receiver, agent, depositary, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such member bank; but as to any such affiliate, member banks shall continue to be subject to other provisions of law applicable to loans by such banks and investments by such banks in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank."

SEC. 327. Section 24 of the Federal Reserve Act, as amended, is amended by adding at the end thereof the following new paragraph:

"Loans made to establish industrial or commercial businesses (a) which are in whole or in part discounted or purchased or loaned against as security by a Federal Reserve bank under the provisions of section 13b of the Federal Reserve Act, (b) for any part of which a commitment shall have been made by a Federal Reserve bank under the provisions of said section, (c) in the making of which a Federal Reserve bank participates under the provisions of said section, or (d) in which the Reconstruction Finance Corporation cooperates or purchases a participation under the provision of section 5d of the Reconstruction Finance Corporation Act, shall not be subject to the restrictions or limitations of this section upon loans secured by real estate."

SEC. 328. Effective January 1, 1936, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (38 Stat. 730), approved October 15, 1914, as amended, is further amended (a) by striking out section 8A thereof and (b) by substituting for the first three paragraphs of section 8 thereof the following:

"SEC. 8. No director, officer, or employee of any member bank of the Federal Reserve System shall be at the same time a private banker or a director, officer, or employee of any other bank, banking association, savings bank (other than a mutual savings bank), or trust company except in limited classes of cases in which the Federal Reserve Board may allow such service by general regulations when in the judgment of the Federal Reserve Board such classes of institutions are not in substantial competition."

SEC. 329. (a) Section 1 of the Act of November 7, 1918, as amended (U. S. C., title 12, sec. 33; Supp. VII, title 12, sec. 33), is amended by striking out the second proviso down to and including the words "to be ascertained" and inserting in lieu thereof the following: "*And provided further*, That if such consolidation shall be voted for at said meetings by the necessary majorities of the shareholders of each of the associations proposing to consolidate, any shareholder of any of the associations consolidated who has voted against such consolidation at the meeting of the association of which he is a shareholder and has given notice in writing thereat to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him if and when said consolidation shall be approved by the Comptroller of the Currency, such value to be ascertained as of the date of the Comptroller's approval."

(b) Such section 1 is further amended by adding at the end thereof the following paragraphs:

"Publication of notice and notification by registered mail of the meeting provided for in the foregoing paragraph may be waived by unanimous action of the shareholders of the respective associations. Where a dissenting shareholder has given notice as above provided to the association of which he is a shareholder of his dissent from the plan of consolidation, and the directors thereof fail for more than thirty days thereafter to appoint an appraiser of the value of his shares, said shareholder may request the Comptroller of the Currency to appoint such appraiser to act on the appraisal committee for and on behalf of such association.

"If shares, when sold at public auction in accordance with this section, realize a price greater than their final appraised value, the excess in such sale price shall be paid to the shareholder. The consolidated association shall be

liable for all liabilities of the respective consolidating associations. In the event one of the appraisers fails to agree with the others as to the value of said shares, then the valuation of the remaining appraisers shall govern."

SEC. 330. (a) Section 3 of the Act of November 7, 1918, as amended (U. S. C., Supp. VII, title 12, sec. 34 (a)), is amended by striking out the first sentence following the proviso down to and including the words "to be ascertained" and inserting in lieu thereof the following: "If such consolidation shall be voted for at said meetings by the necessary majorities of the shareholders of the association and of the State or other bank proposing to consolidate, and thereafter the consolidation shall be approved by the Comptroller of the Currency, any shareholder of either the association or the State or other bank so consolidated, who has voted against such consolidation at the meeting of the association of which he is a stockholder, and has given notice in writing thereat to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him if and when said consolidation shall be approved by the Comptroller of the Currency, such value to be ascertained as of the date of the Comptroller's approval."

(b) Such section 3 is further amended by adding at the end thereof the following paragraph:

"Where a dissenting shareholder has given notice as provided in this section to the bank of which he is a shareholder of his dissent from the plan of consolidation, and the directors thereof fail for more than thirty days thereafter to appoint an appraiser of the value of his shares, said shareholder may request the Comptroller of the Currency to appoint such appraiser to act on the appraisal committee for and on behalf of such bank. In the event one of the appraisers fails to agree with the others as to the value of said shares, then the valuation of the remaining appraisers shall govern."

SEC. 331. The Act entitled "An Act to prohibit offering for sale as Federal farm loan bonds any securities not issued under the terms of the Farm Loan Act, to limit the use of the words 'Federal', 'United States', or 'reserve', or a combination of such words, to prohibit false advertising and for other purposes", approved May 24, 1926 (U. S. C., Supp. VII, title 12, secs. 584–588), is amended by inserting in section 2 thereof after "the words 'United States'", the following, "the words 'Deposit Insurance'"; and by inserting in said section after the words "the laws of the United States", the following, "nor to any new bank organized by the Federal Deposit Insurance Corporation as provided in section 12B of the Federal Reserve Act, as amended", and by striking out the period at the end of section 4 and inserting the following, "or the Federal Deposit Insurance Corporation."

SEC. 332. The Act entitled "An Act to provide punishment for certain offenses committed against banks organized or operating under laws of the United States or any member of the Federal Reserve System" (48 Stat. 783), approved May 18, 1934, is amended by striking out the period after "United States" in the first section thereof and inserting the following: "and any insured bank as defined in subsection (c) of section 12B of the Federal Reserve Act, as amended."

Senator FLETCHER. I thought I would make that statement, Mr. Chairman, as the foundation for the hearings.

Senator GLASS. Yes; thank you, Mr. Chairman.

In order that it may be understood that there has been no delay in the consideration of this bill, I desire to say that five members of the subcommittee having charge of the bill are members of the Senate Appropriations Committee, and all of them, more or less, and especially the chairman of the committee, were occupied with what is known as the "relief" and "works-relief bill"; hence it was impossible to give consideration to this bill before now.

Senator BULKLEY. In addition to that, Mr. Chairman, three members of this subcommittee are members of the Home Loan subcommittee and have given a good deal of time to the Home Loan bill.

Senator TOWNSEND. That is correct.

Senator GLASS. I just wanted it to appear in the record that we have gotten to the bill as soon as we could.

Mr. Crowley, will you be good enough to take a seat over there?

Mr. CROWLEY. Thank you, Mr. Chairman.

STATEMENT OF LEO T. CROWLEY, CHAIRMAN OF THE BOARD, FEDERAL DEPOSIT INSURANCE CORPORATION

Senator GLASS. Mr. Crowley, you have heard read the letter of the President to the Chairman of the Banking and Currency Committee of the Senate, stating that this bill, known as "S. 1715", is a tentative draft of the banking bill, and that the President desired that you and others supposed to be associated with the drafting of the bill be heard by the committee; and you have been requested to come and testify accordingly. We would be glad to have you say what you may desire.

Senator COUZENS. Is this testimony going to be confined to title I?

Senator GLASS. In support of title I.

Mr. CROWLEY. Thank you.

Senator GLASS. I have been told by you that you had part only in drafting title I of the bill.

Mr. CROWLEY. That is true; that is the part that I drew. The general counsel and I drafted title I, which is the part I am familiar with.

Senator GLASS. You had nothing to do with title III?

Mr. CROWLEY. Not the drafting of it; no, sir.

Senator GLASS. And it was not your suggestion that they be combined in one?

Mr. CROWLEY. No, sir; that was the suggestion of others—that they be combined in one.

Senator GLASS. Very well.

Mr. CROWLEY. Mr. Chairman, I have here an outline that I would like to present. It will take probably 30 or 40 minutes to go through with it. Do you object to that? It is a complete report of the changes in our bill.

Senator GLASS. No; I do not object to it.

Senator COUZENS. You mean changes in the law, and not changes in your bill?

Mr. CROWLEY. Changes in the bill; yes, sir.

With your permission, I would like to outline to you in detail the reasons which have motivated our suggestions for changes in the permanent-insurance plan. The charts and tables on the next few pages give a vivid picture of the commercial banking structures of the United States. These data cover all insured and noninsured banks, arranged according to total deposit liability size groupings. They do not include mutual savings banks or private banks.

Ninety percent by number of all of the licensed commercial banks in the United States have been admitted to the insurance fund. Over 98 percent of the total deposits in commercial banks and trust companies in the United States are in banks, the deposits of which are insured. On October 1, 1934, there were only 1,100 licensed commercial banks with deposits of slightly more than $500,000,000 which

were not insured, while insured commercial banks numbered more than 14,000 on that date, and their deposits amounted to some $36,000,000,000. Mutual savings banks have been excluded from these figures. There are 68 out of the 576 mutual savings banks in the fund for mutuals.

The charts, we will just pass for the time. We will come back to those, Senator Bulkley, if you do not object.

Senator BULKLEY. I was wondering whether you wanted them printed in the record.

Senator COUZENS. Were they printed in the Record of the House?

Mr. CROWLEY. Yes, Senator.

Senator COUZENS. I do not think we need to duplicate them here.

Senator GLASS. No; I do not think we do. It would be a useless expense.

Mr. CROWLEY. Losses to depositors, 1864 to 1934: To arrive at a practical basis for estimating the amount of funds necessary to cover the insurance liability of the Corporation, our first consideration has been the volume of losses which depositors have borne during the past.

From July 1, 1864, the beginning of the national banking system, to June 30, 1934, about 16,000 commercial banks, with deposits of nearly 9 billion dollars, are known to have suspended operations. Losses to depositors in these banks are estimated at 3 billion dollars over and above all recoveries.

The estimates of losses to depositors in suspended commercial banks are based upon available data which clearly minimize the facts. The figures for national banks are fairly complete and reliable, and are taken from reports of the Comptroller of the Currency. The figures for other commercial banks, however, are incomplete, particularly for the period prior to 1920. All failures have not been reported. Bank depositors, therefore, have suffered losses which have not been recorded. Many records of voluntary liquidation by banks ignore the fact that depositors were not paid in full. Then, again, bank reorganizations, in late years, have been based upon the waiving of depositors' claims, while in other cases depositors have voluntarily reduced their claim or made contributions to capital as a means of absorbing losses.

The accompanying charts show, by years, from 1864 to 1934 the percentage of national and other commercial banks suspending, and the ratio of deposits in suspended banks to deposits in active banks. The ratio of deposits in suspended banks to total deposits in all active banks is smaller for national than for other commercial institutions.

Senator COUZENS. During the preparation of these figures did you obtain any amounts that might have been lost by stockholders?

Mr. FOX (accompanying Mr. Crowley). We have estimates that we can give you if you would like them.

Senator COUZENS. Yes; if it does not take up too much time. You can go on and you can put that in later.

Mr. CROWLEY. Our estimates indicate that about one billion dollars of the 9 billion dollars which was on deposit in commercial banks that failed during the 70-year period, were secured by pledge of col-

lateral or otherwise. Of the remainder, some 6 billion dollars were in accounts of less than $5,000, or constituted the first $5,000 of large accounts. Two billion dollars represent the volume of these deposits which was in accounts with balances above $5,000.

For every $100 of deposits in the entire commercial banking system, about 32 cents a year was lost. Of this figure, it is estimated that 24 cents represents losses to depositors with balances not in excess of $5,000, while the remaining 8 cents represents losses to depositors having balances in excess of $5,000. For every $100 of deposits in the national banking system, 21 cents per year was lost, as against 42 cents per $100 per year in the State system. The table on the following page summarizes the estimates of losses to depositors in suspended national and other commercial banks during the 70 years ending June 30, 1934.

Losses to depositors in suspended commercial banks, July 1, 1864–June 30, 1934

	All commercial banks	National banks	Other commercial banks
Deposits in suspended banks (millions of dollars)	$8,778	$2,715	$6,063
Secured	1,033	184	849
Unsecured under $5,000	5,762	1,675	4,087
Unsecured over $5,000	1,983	856	1,127
Estimated losses (millions of dollars)	3,113	1,015	2,098
Secured deposits	(1)	(1)	(1)
Unsecured deposits under $5,000	2,301	667	1,634
Unsecured deposits over $5,000	812	348	464
Average loss per year for each $100 of deposits in active banks	0.32	0.21	0.42
Unsecured deposits under $5,000	.24	.14	.33
Unsecured deposits over $5,000	.08	.07	.09

[1] Negligible.

Federal Deposit Insurance Corporation Division of Research and Statistics.

Losses to depositors have been most severe during the periods of business depression. Two-thirds of the losses during this entire 70-year period resulted from bank suspensions occurring during the 4 years ending June 30, 1934. For these 4 years, losses to depositors are estimated at $1.32 per year for each $100 of deposits in the commercial banking system. Comparable losses during the depression of the 1870's amounted to 35 cents, and during the depression of the 1890's amounted to 23 cents. The figures for the early periods understate the losses, but it is apparent that the losses in these earlier periods were not as great in proportion to total deposits as during the past 4 years. The data are summarized on the following tables. The first shows the losses in commercial banks which suspended and did not reopen during the three depression periods; the second compares losses during the 14 years included by the three critical periods, with the other 56 years since 1864.

Losses to depositors in commercial banks suspending during periods of crisis—Banks which did not reopen

	All commercial banks [1]		
	1873–78	1892–97	1931–34
Deposits in suspended banks (millions of dollars)	$85	$134	$5,356
Secured	10	13	637
Unsecured under $5,000	66	103	3,256
Unsecured over $5,000	9	18	1,473
Estimated losses in deposits (millions of dollars)	26	43	2,142
Secured deposits	[2]	[2]	[2]
Unsecured deposits under $5,000	23	36	1,478
Unsecured deposits over $5,000	3	7	664
Average loss per year for each $100 of deposits in active banks	0.35	0.23	[3] 1.28
Unsecured deposits under $5,000	.31	.19	.89
Unsecured deposits over $5,000	.04	.04	.40

[1] Periods beginning on July 1 and ending on June 30 of the years specified.
[2] Negligible.
[3] If losses of banks which subsequently reopened are included, the average loss per year for each $100 of deposits in active banks is raised to $1.32.

Source: Federal Deposit Insurance Corporation, Division of Research and Statistics.

Losses to depositors in suspended banks, July 1, 1864–June 30, 1934—Three crisis periods contrasted with the remaining years—All commercial banks

	70 years 1864–1934	14 years during 3 crisis periods [1]	Remaining 56 years
Deposits in suspended banks (millions of dollars)	$8,778	$6,084	$2,694
Secured	1,033	716	317
Unsecured under $5,000	5,762	3,738	2,024
Unsecured over $5,000	1,983	1,630	353
Estimated losses (millions of dollars)	3,113	2,269	844
Unsecured deposits under $5,000	2,301	1,578	723
Unsecured deposits over $5,000	812	691	121
Average loss per year for each $100 of deposits in active banks	.32	1.17	.11
Unsecured deposits under $5,000	.24	.82	.09
Unsecured deposits over $5,000	.08	.36	.02

[1] Includes figures for banks suspending during period July 1, 1930 to March 15, 1933 which subsequently reopened.

Source: Federal Deposit Insurance Corporation Division of Research and Statistics.

The experience of the past 70 years indicates that to repay losses suffered by all depositors in our suspended commercial banks, an assessment of 33 cents per $100 of total deposits, or one-third of 1 percent of total deposits in all open commercial banks, would have been necessary. Excluding the losses incurred during the three depression periods (1873–78, 1892–97, 1931–34) and confining ourselves to losses occurring during the balance of the 70 years, an assessment of one-eighth of 1 percent would have been necessary.

Future losses: In the past, the number, timing, and geographic concentrations of bank suspensions have been chiefly due to funda-

mental weaknesses in banking structure and the course of economic events. Suspension of individual banks within the areas affected has reflected, in the main, the quality of bank management. In the future, the magnitude of losses which will result from bank failures will also depend upon the trend of economic events, the changes which may occur in the structure and functions of the commercial banking system, the caliber of the individual bank management, the extent to which the system is reinsured against defalcations, and the quality of the supervision exercised over these banking institutions.

Of course, the future trend of economic events cannot be forecast.

Changing tendencies are now apparent in the structure and functions of commercial banking. On the one hand, the drastic reduction in the number of banks during the past 14 years has greatly relieved the over-banked condition in many communities. On the other hand, new financial agencies, serving specialized needs have been created, and will compete, to some extent, with commercial banks. The types of credit which may be extended by commercial banks may be subject to varying degrees of risk.

The extent to which the caliber of bank management will improve in the future, over what it has been in the past, cannot be estimated. While it is hoped that a better quality of personnel will develop, it must be recognized that there will continue to be poorly managed banks and that such institutions will eventually succumb. We cannot foretell the extent to which the existence of deposit insurance will influence bank management.

Insurance premium: To establish a fair rate of assessment which the banks shall pay for Federal deposit insurance, the hopeful expectations for the future must be tempered by a consideration of the realities of the past. Let me repeat that a premium at the rate of one-third of 1 percent of total deposits would have been necessary to cover all losses to depositors during the past 70 years. A premium at the rate of one-eighth of 1 percent would have covered depositors' losses in all years except those of severe depression.

We are concerned next with the basis of assessment, and with the ability of the banks to pay the required amount.

The existing permanent insurance law provides that all insured banks may become liable for an uncertain number of successive assessments. It is not sound deliberately to subject an operating business to an unpredictable liability. The maximum rate and number of assessments should be fixed so that an insured bank may know in advance its potential liability to the Corporation. An annual premium of a known maximum amount constitutes a sound basis for insurance revenue, as it provides a specific payment to cover a clearly defined risk for a definite period of time.

We also believe that payments made by insured banks should be made in the form of premiums rather than through the purchase of stock. As in the case of other insurance companies, receipts from premiums should be added to the reserve funds of the Corporation. Such reserve funds should not be considered an earning asset of the insured banks. The interest received by the Corporation from the

investment of reserve funds should not be made the basis of dividend payments.

It is recommended that assessments be based upon total deposits in insured banks, regardless of whether or not the insurance is limited to $5,000 per depositor. To base assessments solely on the first $5,000 of each depositor's account places an undue burden upon the small banks. The greatest risk to the Corporation does not necessarily lie in these institutions. On the contrary, it has been demonstrated frequently in recent years that the consequences of the failure of a large bank may be more disastrous than the failure of a number of small institutions. The closing of a large bank often brings in its wake the failure of correspondent institutions.

The benefits of deposit insurance are not limited solely to the protection of the individual depositor. The entire banking structure of the country is so intimately interwoven that a disturbance in any part of the system may cause repercussions of far-reaching proportions. The benefits which will accrue to the large city banks because of greater stability in the country banks, are real and tangible.

All banks, large and small, should be required to support the insurance system. Banking is no longer merely a private business proposition. It involves great social consequences. The stability of the banking system affects the economic prosperity of the country. The raising of a sufficient revenue, solely through the levying of premiums against the deposits of those receiving direct insurance benefits will not be a fair distribution of the burden.

Our analysis of the ability of the banks to pay assessments is confined solely to national banks, since adequate data for other institutions are not available. The figures for earnings, profits, and dividends of national banks since 1870, as published by the Comptroller of the Currency, have been used. If the operating results of national banks can be taken as criteria, the banking system as a whole could have paid its losses during the past 70 years without impairing its stability or the payment of reasonable dividends to stockholders.

Operating profits of the banks have been below normal during recent years. The condition is reflected not only in reductions in gross earnings but also in unusually heavy write-offs made necessary by shrinkage in values. As we come out of the depression, losses on existing credits will appear. Banks should charge off these losses currently as they develop. They should not allow them to accumulate as was frequently the case prior to the banking holiday of 1933. These losses may absorb a considerable part of the banks' earnings over the next few years. To ask the banks to bear the entire cost of insurance at a rate comparable to the experience of losses over the past 70 years, would subject them to a heavy burden at the present time.

Senator COUZENS. Do you mind an interruption there?

Mr. CROWLEY. No, sir.

Senator COUZENS. During the preparation of this statement and the gathering of data for it, have you computed the cost of eliminating interest on the savings deposits?

Mr. CROWLEY. We will come to that, Senator.

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Senator COUZENS. Very well.

Mr. CROWLEY. It is probably true that after the period of adjustment has been completed, the banks' earnings will enable them to pay an assessment adequate to cover losses at the rate shown for the past 70 years. To ask them to do so, however, without making some effort to reduce the burden of losses seems to me to be unfair to the banks and to the public which must ultimately bear the cost. This factor prompts us to ask for specific powers which will reduce these losses so that the insurance plan can be operated upon a reasonable assessment basis.

The following table compares annual averages of earnings, expenses, losses, and profits of the national banks for the years 1918 to 1930 with similar figures for the 6 months' period ending December 31, 1933. If charge-offs during the last half of 1933 had been no heavier than the average for the years 1918 to 1930, the national banks would have shown net profits of more than $1 for each $100 of total deposits or more than $7 for each $100 of invested capital.

Earnings, expenses, losses, and profits of national banks' averages for 1918–30, compared with 6 months ending Dec. 31, 1933

Items	Amounts per year per $100 of total deposits		
	Average 1918–30	6 months ending Dec. 31, 1933 [1]	Change
Gross earnings, plus recoveries	$6.46	$5.18	−$1.28
Interest paid	1.92	1.05	−.87
Other expenses	2.44	2.18	−.26
Net earnings, plus recoveries	2.10	1.95	−.15
Losses on loans and investments	.81	3.76	−2.95
Net additions to profits	1.29	[2] 1.81	−3.10

[1] The figures for the 6 months have been adjusted to show a rate per year, rather than for 6 months only.
[2] Deficit.

Source: Federal Deposit Insurance Corporation, Division of Research and Statistics.

It will be noted that the expenses of operating national banks were considerably lower in 1933 than during the period 1918 to 1930. Most of this reduction was due to a decline in the average rate of interest paid on deposits. About two-thirds of this reduction in interest occurred before the Banking Act of 1933 became effective and reflected the general decline in money rates. One-third of the reduction took place after the passage of the act, reflecting almost entirely the prohibition against the payment of interest on demand deposits. The savings in interest on account of this change in the law amounted to 26 cents for each $100 of total deposits or more than the premium necessary to cover losses on deposits insured up to $5,000, as indicated by the experience of the past 70 years.

The cost of insurance will not be disproportionately heavy in relation to earning power if paid by banks in proportion to their total deposits. If insurance be limited to $5,000 for each depositor and the cost is distributed among the banks in proportion to their insured

deposits, the payments by smaller banks would be nearly double the assessments distributed on the basis of total deposits.

Reserve for losses: We have recommended not only that subscriptions by insured banks to capital stock of the Corporation be eliminated, but also that the Corporation be given the right to allocate to surplus any portion of the some $300,000,000 paid to it by the Treasury and the Federal Reserve banks. If the amounts paid in subscriptions to stock were to be carried in full on the books of the Corporation as capital stock, the Corporation would be unable to pay any losses except out of income, over and above operating expenses, without impairment of its capital. The Corporation would have no surplus and while it might legally be permitted to spend its capital in meeting its obligations, a substantial capital impairment shown in its published reports would have a most adverse effect upon public confidence. We are, therefore, recommending that the stock issued by the Corporation to the Federal Reserve Banks and the Treasury, be without par value and that the balance be placed in a surplus or reserve account.

Until such time as the resources of the Corporation may be adequate to handle the volume of anticipated losses, it would be very unwise for the Corporation to pay dividends. We, therefore, recommend that the payment of dividends be eliminated.

It is important that the Corporation be given adequate means for increasing the funds at its disposal during critical periods. It is doubtful, however, if at such times the Corporation could borrow from private sources. The United States Treasury is the logical purchaser of these obligations. The Government is vitally interested in the maintenance of the country's banking system. We recommend that the obligations of the Corporation be issued only with the approval of the Secretary of the Treasury so that any credit which the Corporation may require shall not conflict with the financial policies of the Government.

Standards of membership: During the past year the activities of the Corporation have been chiefly concerned with the problem of rebuilding the capital structures of insured banks. In the future, the Corporation should devote a large part of its efforts to the maintenance of sound conditions among the insured institutions.

To maintain sound conditions among all insured banks it is essential that the Corporation have the power to control the admission of banks to the insurance fund. We cannot return to the overbanked condition of 1920 if we wish to have a sound banking structure. The growth of excessive banking facilities was one of the most destructive influences which existed prior to the banking holiday of 1933.

Since the banking holiday much effort has been expended in reorganizing and relicensing banks in order that the frozen funds of the depositors might be released. The accompanying table indicates that more than 2,000 banks have been added to those which withstood the shock of the banking crisis.

Newly licensed[1] *banks grouped according to volume of total deposits by class of bank—July 1, 1933, to Dec. 31, 1934*

[Deposit figures in thousands]

	July 1, 1933, to Dec. 31, 1934					
	Number of banks			Aggregate deposits[2]		
	National	State	Total	National	State	Total
Banks with deposits of—						
$100,000 or under	25	379	404	$2,070	$22,905	$24,975
$100,001 to $150,000	29	222	251	3,624	27,528	31,152
$150,001 to $250,000	131	268	399	25,862	50,956	76,818
$250,001 to $500,000	219	248	467	78,988	87,635	166,623
Subtotal	404	1,117	1,521	110,544	188,024	299,568
$500,001 to $750,000	110	90	200	67,346	55,735	123,081
$750,001 to $1,000,000	58	42	100	50,765	36,665	87,430
$1,000,001 to $2,000,000	76	65	141	104,282	88,732	193,014
$2,000,001 to $5,000,000	44	35	79	131,970	102,133	234,103
$5,000,001 to $10,000,000	16	6	22	113,573	35,067	148,640
$10,000,001 to $50,000,000	5	3	8	91,414	51,860	143,274
Not available	6	88	94			
Total	719	1,446	2,165	669,894	559,216	1,229,110

[1] By "newly licensed" is meant existing banks reopened, banks reorganized, and primary organizations.
[2] Deposit figures for the most part as reported in Rand-McNally Bankers' Directory for July 1934.
Source: Card records of newly licensed banks maintained by the division.
Federal Deposit Insurance Corporation Division of Research and Statistics.

Under present conditions the Corporation insures all newly licensed banks which apply for insurance if they are found to be solvent. Approximately 90 percent of the newly licensed institutions have become insured. The Corporation should be granted the specific power to refuse the admission of new banks into the insurance fund where such admission would weaken the banking system. The Corporation should also be given the specific right to require a higher standard than mere solvency for admission to the insurance fund.

It is my firm belief that every community which can produce a sufficient volume of deposits to support a bank should receive the advantages of such facilities. There are many localities throughout the United States, however, which can support only one or two banks. To establish a second or third bank in such communities leads to speculative and destructive practices in an effort to earn sufficient income to pay expenses. For the protection of the insured institutions, the Corporation, and the public welfare, the admission of banks to the insurance fund should be carefully supervised.

It is for these reasons that we have recommended that the legislation incorporate specific standards to be met by future applicants before admission to the benefits of deposit insurance. These standards have already been recognized by Congress in other legislation.

Capital rehabilitation: In the latter part of 1933 banks were admitted to membership in the insurance fund under exceptional conditions. The situation existing at the close of 1933 was critical. The lack of real public confidence in banks was unsettling. Congress, therefore, provided that all solvent banks should be admitted to the

insurance fund, even though their capital was impaired in a number of instances. However, the Corporation immediately undertook to assist all banks which needed it in rebuilding their capital structures and correcting capital impairments which our examinations had disclosed.

The capital rehabilitation of banks was to be effected either through local contributions or through the facilities of the Reconstruction Finance Corporation. The Insurance Corporation assisted State nonmember banks to rebuild their capital structure. The responsibility for the condition of National and State member banks rests with the Comptroller of the Currency and the Federal Reserve Board, respectively. The Comptroller of the Currency and the Federal Reserve Board had the right to insist that banks under their jurisdiction accept necessary aid. The Corporation, however, had no such power. To accomplish the task of rebuilding the capital of nonmember State banks which had been admitted to the benefits of insurance, the Corporation could only use the power of rational appeal to the board of directors or to the State banking authorities. Without the cooperation of the State banking authorities the capital structure of nonmember banks would not have been rebuilt.

State nonmember banks which could not obtain local capital contributions were assisted in securing aid from the Reconstruction Finance Corporation. Banks which had already made application were assisted in complying with the conditions laid down by the Reconstruction Finance Corporation. The accompanying table reveals the extent of the aid extended by the Reconstruction Finance Corporation to the various classes of banks in this country. While it is true that by the close of 1934 Federal Reserve member banks (State and national) had received almost three times as much Reconstruction Finance Corporation aid as had nonmember banks, in proportion to total deposit liability the aid given State nonmember banks was twice as great as the assistance extended member banks.

Reconstruction Finance Corporation purchases of capital obligations of insured banks

[In millions of dollars]

	National banks	State member banks	Insured nonmember banks (excluding mutuals)	Total insured banks (excluding mutuals)
1. Total deposits, June 30, 1934 [1]	$19,896	$11,116	$4,746	$35,814
2. Capital, surplus and undivided profits, June 30, 1934 [1]	2,843	1,886	1,005	5,752
3. Net Reconstruction Finance Corporation contribution to capital to June 30, 1934 [1]	384	202	184	773
4. Ratio Reconstruction Finance Corporation to total deposits—percent	1.9	1.8	3.9	2.2
5. Ratio Reconstruction Finance Corporation to total capital—percent	13.5	10.7	18.3	13.4
6. Reconstruction Finance Corporation cumulated disbursement to all banks, Feb. 1, 1935 [2]	$465	$238	$256	$959
7. Ratio of item 6 to item 1—percent	2.3	2.1	5.4	2.7
8. Ratio of item 6 to item 2—do	16.4	12.6	25.5	16.7

[1] Call report of insured banks, no. 1.
[2] As reported by the Reconstruction Finance Corporation.

Source: Federal Deposit Insurance Corporation, Division of Research and Statistics.

In some instances the necessary capital reconstruction had hardly been accomplished when applications were made by the banks to retire the preferred stock or debentures purchased from the Reconstruction Finance Corporation. As has been indicated, the capital reconstruction program was carried out for the purpose of protecting not only the banks but the Insurance Corporation. The capital and surplus of banks constitute a guaranty fund to depositors. They represent a cushion for the liability of the Corporation. When this capital and surplus are exhausted through losses, the depositor must turn to the Insurance Corporation for the payment of his deposits. The Corporation is vitally concerned, therefore, with the amount and condition of the capital and surplus of insured institutions. The reduction of this cushion of safety should be permitted only after obtaining the approval of the Corporation. If banks are allowed to retire this new capital, the rehabilitation, which has been so tediously accomplished, would be of no avail. The Corporation should have the right to control any future reductions in capital by insured banks.

Mergers and consolidations: The Corporation should have the right to review all mergers and consolidations affecting insured banks. It is possible that banks which have been refused admission to the insurance fund may be absorbed by insured institutions, thus extending the liability of the Corporation to depositors of the absorbed bank. Under the existing conditions, there is no way by which such a subterfuge could be prevented.

In the interests of the depositor the Corporation should have the right to refuse to give its stamp of approval to inequitable or unsound reorganizations. Last year the Corporation was called upon to review more than 700 such plans. Many of those which we have seen are inequitable. The Corporation should have the right to pass upon the justice and soundness of reorganization plans. Depositors have often made tremendous sacrifices without the comparable sacrifice by stockholders and other special groups.

The Corporation now has the right to buy assets of closed Federal Reserve member banks. We have recommended that this right to purchase be extended to operating insured banks until July 1936 whenever such action will avert an impending loss and facilitate a merger or consolidation. It will be to the best interests of both depositors and the Corporation if, through the absorption by the Corporation of a comparatively small loss, a more serious loss will be averted. Furthermore, such a procedure will offer both an incentive and a method for completing the rehabilitation of all insured banks prior to July 1, 1936. The right to purchase assets from operating banks should not be exercised unless in conjunction with a merger or consolidation and only for the purpose of averting loss.

Fidelity and other protection: Bank failures are frequently precipitated by defalcations. We, therefore, recommend that the Corporation be given the right to require adequate fidelity and other insurance. Such insurance provides protection to depositors, to bank executives, and to the Corporation. Where a given institution does not carry sufficient insurance, the Corporation should be given the right to contract for such insurance and charge the bank therefor.

Termination of insurance: A method whereby nonmember banks may withdraw from the insurance fund should be included in the

legislation. Banks leaving the insurance fund should give adequate notice to the Corporation and to their depositors. However, such withdrawals should not expose the depositors to a sudden cancelation of the protection afforded them, and the insurance benefits should be extended to the depositors for 2 years after the withdrawal of any bank.

We also believe that the Insurance Corporation should have the right to terminate the insurance of any bank if, after a hearing and after notice to depositors, such action is in the best interest of both depositors and the Corporation. In establishing deposit insurance Congress has assumed not only a definite responsibility to bank depositors, but also a moral obligation for the sound management of banks. If the Corporation finds that an insured bank is engaged in repeated practices detrimental to its depositors, the Corporation should not be placed in the position of sanctioning such practices but should be given the right to terminate the insurance of the bank's deposits without jeopardizing the depositors. For the protection of depositors we have recommended that in such cases insurance be extended for 2 years from the time that membership in the fund is terminated.

The right of dismissal may seem to be somewhat drastic, but it is hoped that the use of this power may seldom be necessary. As an intermediate step, and as a means of notifying the public, it is suggested that the Corporation be authorized to publish either all or such portions of examination reports as it deems necessary. The State supervisory authorities will be advised of the intention to publish all or part of the examination report and only after adequate notice has been served on the executives of the bank concerned will such action take place. This procedure is designed to allow sufficient time for the executives of the bank concerned to correct the practices which jeopardize the safety of the depositors' funds. The Comptroller of the Currency has this right in the case of national banks.

Senator COUZENS. May I ask a question at that point?

Mr. CROWLEY. Yes, sir, Senator.

Senator COUZENS. What would happen to a bank if it was known it had made an application for withdrawing from the Insurance Deposit Corporation or if the Corporation undertook to cancel the insurance? Wouldn't there be a run on the bank?

Mr. CROWLEY. Well, I would say this, that if a bank has been carrying on practices of this kind, that we have given them 90 days' time to correct them, and if they won't do it or haven't done so, that the depositors should be protected by notice that that bank is going to be put out of the system. Now, I presume it will be agreed that if a bank has been guilty of practices such as that, it should be put in liquidation, if it has been conducting its affairs along that line.

Senator COUZENS. Yes; but what am I getting at is this: Would not publicity of the fact that the bank is going to lose the insurance ordinarily cause a run? I am wondering if it would be better, when that necessity arose, to close the bank and save the depositors.

Mr. CROWLEY. Well, I should say this: If a bank has been carrying on unsound practices, and the Corporation has given the 120 days' notice in which to correct such practices, and then the bank either has failed or refused to make such corrections, then the de-

positors of that bank should be protected by a suitable notice that the bank is going to be dismissed. Now, I presume it is generally agreed that if a bank has been guilty of unsound practices it should be eliminated from the insurance fund, even though such elimination mean liquidation.

Senator COUZENS. You are asking power, however, to cancel the insurance and to permit a bank to withdraw from the fund, which is tantamount to a notice to the depositors that the bank is in trouble. It seems to me there ought to be some better device for handling that matter than has been suggested in your memorandum.

Mr. CROWLEY. As I understand it, the Congress does not have the right to give the Corporation the power to close State banks.

Senator COUZENS. Would you give notice to the State bank before you took any such action?

Mr. CROWLEY. Yes, and also notice to the State supervising authorities.

Senator COUZENS. Would you give the State officials any notice before you made public your action?

Mr. CROWLEY. Yes.

Senator BYRNES. Would the public get the information?

Mr. CROWLEY. Ultimately the public would get the information after the necessary notice had been given and the bank given an opportunity to appear before our Board to show cause why they should not be eliminated from the fund.

Senator BYRNES. On the face of that notice, practically every bank would have to close, they would feel that they would have to close in order to take advantage of the insurance.

Mr. CROWLEY. You mean the final notice?

Senator BYRNES. No; I mean just what Senator Couzens says, that once it becomes known to the depositors that you believe their practices are such as to justify you in taking such action, that depositors will immediately withdraw their funds, immediately the wise fellows will, and some of the officials will, on getting notice.

Mr. CROWLEY. The law will operate in this manner: Notice is first given to the officials of the bank and the State supervising authority, and the bank is given 120 days to make the necessary corrections. At the end of the 120 days, if the corrections have not been made, the bank will then have 30 days within which its representative may appear before the board of directors of our Corporation to answer the charges. At the expiration of the 30 days, if the corrections have not been made or the representative of the bank has not appeared, the bank is expelled from the fund. You understand, however, that we insure those who are depositors at the date of expulsion for a period of 2 years thereafter. We do not insure anyone who becomes a depositor after the date of expulsion. This, I think, Senator, covers the situation you have in mind.

Senator BYRNES. It should not accept them without the depositor having knowledge that the insurance has been removed.

Mr. CROWLEY. Yes; that is right.

Senator BYRNES. The only question is whether they should run at all.

Senator COUZENS. Let us say there was the 120-day and 30-day additional notice, yet all the directors and officials of that bank have the knowledge, what would happen to the insiders?

Mr. CROWLEY. The most the insiders could do would be to withdraw balances in excess of $5,000, realizing that if the bank should ultimately close, they, like everyone else, would be protected up to the $5,000 limit.

Senator COUZENS. They may even want the money in there, having in mind that the Deposit Insurance Corporation could pay it and then get the money out no matter whether it was below or above the $5,000 insurance. It seems to me there must be some better device for handling this situation than is outlined in your testimony.

Mr. CROWLEY. Well, we would be glad to talk with you about that.

Senator COUZENS. We can take that up later.

Senator BULKLEY. I would like to get clear the operation of your distinction between the old and the new deposits. Suppose I have a $4,000 deposit in a bank where you are going to terminate the insurance. Now, if I draw that money in the account down to $2,000 and then make a new deposit of $2,000, how much am I insured to?

Mr. CROWLEY. $2,000.

Senator BULKLEY. If I made a new deposit, savings deposit, up to $5,000, and then drew it down to $4,000, how much would I be insured for?

Mr. CROWLEY. You will be insured only for the amount of your balance at the day that we notify the bank that they are dismissed from the fund.

Senator BULKLEY. Exactly; but I may be changing the amount, depositing and checking out.

Mr. CROWLEY. No; as you check out of that, our liability goes down. Otherwise, there would be no incentive for putting the bank out of the fund because our liability would always remain the same.

Senator BULKLEY. So, by checking out and drawing out money, your liability would be reduced?

Mr. CROWLEY. Yes.

Senator BULKLEY. And any new deposits would have no effect whatever?

Mr. CROWLEY. This is the primary reason why depositors should know when their bank is no longer insured, so that any future deposits they may make will be made with full knowledge and at their own risk.

The CHAIRMAN. You have no legal right, nor has Congress the right to give you authority to close a State bank.

Mr. CROWLEY. That is right.

The CHAIRMAN. And when a bank gets in the condition you describe it ought to be closed by one method or another, it should not be allowed to continue business and receive deposits over the counter when it is an insolvent condition.

Mr. CROWLEY. That is right.

The CHAIRMAN. Most of the States have statutes making that a penitentiary offense to do that.

Mr. CROWLEY. But, Senator, we couldn't afford, with our liability here, to depend upon the State commissioners to close these banks.

The CHAIRMAN. I am saying that; yes. That is what I am saying.

Mr. CROWLEY. We have got to have some power.

The CHAIRMAN. I think when a bank gets into that condition it ought to be closed in the speediest way possible.

Mr. CROWLEY. That is right.

The CHAIRMAN. Inasmuch as you are not authorized by law and Congress cannot give you the right to close the bank, it seems to me that your method there is worthy of very serious consideration, at least.

Mr. CROWLEY. Reports of condition: Reports of condition now being issued to the public are confusing because of their inadequacy and lack of uniformity. Considerable effort has been expended in a study of this question. Conferences have been held with the State and Federal supervisory agencies in an effort to develop standard and uniform reports of condition. In order that the public may be informed as to the status of the institutions with which they do business, periodical statements of condition should be required of all banks.

Payment of claims: Revision of the provisions of the law reciting the obligation of the Corporation to pay the insured deposits of a closed insured bank is necessary. As it now stands, the law requires the Corporation to organize a new national bank to act as its instrumentality in paying the insured deposits of every closed insured bank. This procedure must be followed even though there is not the slightest possibility of the community being able to capitalize the new national bank. Fifteen insured banks have thus far closed but in only one instance were the local people in a position to capitalize the new bank.

This procedure for paying insured deposits has proved unsatisfactory since it involves needless expense and many unnecessary accounting problems which could be eliminated if the Corporation were permitted to pay its obligations in the same manner as other insurance companies engaged in the commercial field. Accordingly it is proposed that the organization of a new bank be at the discretion of the Corporation.

Under the present law, where it pays the insured portion of a deposit claim which is larger than $5,000, the Corporation becomes subrogated to the entire amount of the depositors' claim until it is reimbursed for the amount paid out to the depositor. This is manifestly inequitable to the larger depositors. We believe that the Corporation should be subrogated only to that portion of the claim which it pays, the depositor retaining his claim for any uninsured portion, and receiving all dividends payable thereon directly from the liquidating officer. In the case of every closed bank there are some depositors who can never be located by reason of death, disappearance, or change of residence. We believe claims which are not filed within 1 year after an insured bank is closed should not be paid by the Corporation. This suggestion finds ample precedent, and will enable the Corporation to close its books on each pay-off within a reasonable period.

The bill before you includes suggestions for clarification of provisions of the existing law about which some doubt has arisen. The adoption of these provisions will facilitate administration.

Five thousand dollars maximum: We recommend that the maximum limit of insurance to any one depositor be retained at the present figure of $5,000. Congress, in establishing deposit insurance, was

presumably most concerned with the mass of depositors with small accounts. Our reports cover 51,000,000 accounts, of which over 98 percent are fully insured with the $5,000 limitation. Many of the accounts not fully covered are interbank accounts, public funds, deposits of corporations, institutions, and trust estates. The actual number of individuals with deposits in excess of $5,000 is probably less than 1 percent of the total number of depositors. Out of the 14,000 insured banks, over 9,600 have more than 80 percent of their deposits insured under the $5,000 limitation. To raise the limit of insurance above $5,000 would materially increase the maximum possible liability of the Corporation. If all the deposits were insured, this would be more than doubled. It would be increased from the present 16½ to nearly 30 billion dollars by the permanent plan which now exists in the statute. This tremendous increase in the maximum possible liability of the Corporation would benefit only one out of each hundred bank depositors.

The Insurance Corporation's interest in the sound operation of banks is more tangible and more vital than that of any supervisory authority. Deposits in practically all commercial banks and trust companies of the United States are insured by the Corporation. Bank supervisory agencies have a responsibility to the depositing public, and it is their duty to see to it that the bank laws are properly enforced. The Corporation, however, has a financial liability to these depositors. Its interest in the sound operation of these institutions is one of dollars and cents.

There are two courses open to the Insurance Corporation. It can be a charitable institution which will pay for the mistakes, bad banking, and dishonesty of bankers, in which case the cost of the insurance must be set so high that it will be an injustice to every sound bank. Or, by being placed on a sound basis, the Corporation may be used as an instrument to improve the standards of bank management and reduce the losses to depositors through bank failures. The latter course, which I prefer, requires that the standard of bank supervision throughout the country be improved, that the Corporation be given the right to protect itself against excessive risks, and, finally that the Corporation be not handicapped by taking into the fund banks which are unsound or by continuing in the fund banks which are mismanaged.

Senator COUZENS. Have you convenient what your experience has been with the banks that have closed?

Mr. CROWLEY. Yes, Senator; I have.

Senator COUZENS. Have you it summarized? You don't need to give each bank.

Mr. CROWLEY. Fourteen of the fifteen insured banks which have failed to date had total deposits of $3,392,000. The secured portion of these deposits, including deposits subject to offset, was $953,000. Our liability was $2,137,000 and deposits of $301,000 were neither insured or secured.

Senator COUZENS. How soon did they pay out after the closing of the bank?

Mr. CROWLEY. Why, we usually started every pay-off within 10 days from the time of the closing.

Senator TOWNSEND. Have you finished your statement, Mr. Crowley?

Mr. CROWLEY. Yes; I have finished the written statement.

Senator TOWNSEND. What was the overhead of the Corporation up to July 1, 1934, as compared with the cost of operation in the last 6 months of 1934?

Mr. CROWLEY. The overhead from September 11, 1933, to January 31, 1934, was $1,702,000. From February 1, 1934 to June 30, 1934, it was $1,130,000. From July 1, 1934 to December 31, 1934, it was $1,512,000. Or, since the Corporation has been in operation, the actual overhead was $4,345,000. The budget that is being set up for 1935 estimates that the cost of operation will be about 2½ million dollars, or a reduction of about $800,000.

Senator TOWNSEND. That is 1935 as compared with 1934?

Mr. CROWLEY. That is correct, Senator.

Senator TOWNSEND. Yes.

The CHAIRMAN. In the event, Mr. Crowley, that the duties and the functions of the Corporation should at a later period be transferred to the Federal Reserve System, what do you estimate would be the reduction in the overhead?

Mr. CROWLEY. I don't think, Senator, such a change would bring about any appreciable reduction in overhead, for the reason that practically all the functions now being carried on by our Corporation would have to be carried on by some other agency for the protection of the insurance fund. It seems to me that when you consider the contribution made toward the rebuilding of the entire banking system, the restoration of confidence among depositors, and the efforts expended toward making banks more safe and sound, the expense of operation of the Corporation can well be considered very nominal.

The CHAIRMAN. Isn't that largely upon the assumption that if transferred to the Federal Reserve System there would be no examination of these banks?

Mr. CROWLEY. Senator, let me say this: If you take away from this Corporation its right to examine banks, you are destroying the greatest safeguard this Corporation has. We are now examining some 7,800 State banks which applied and were admitted to the insurance fund. If we must take the examination of State supervising authorities it means that the protection now afforded by the right to make examination cannot be maintained, and in my judgment you could not hope to keep the Corporation solvent. Now, we have many reasons for this belief, and I want to give one in confidence. I would like to have you read this memorandum, which shows the reasons why hundreds of banks were closed. It also gives you some idea of the hazard we would have if we did not have the examining right.

Senator BULKLEY. Now, as to the banks which are members of the Federal Reserve System, you would rely on the Federal Reserve examination?

Mr. CROWLEY. We do that, Senator. We do not examine any national banks in the Federal Reserve System or members in the Federal Reserve System which are not national banks.

Senator BULKLEY. You don't examine them at all?

Mr. CROWLEY. There is no occasion to.

Senator COUZENS. May I point out to Mr. Crowley that he had better check the figures with respect to the banks that are closed. He read the figures and they were inaccurate as he read them in the

report because the insured deposits were larger than the amount he read in the record, and the record ought to be corrected.

Mr. CROWLEY. $2,137,000.

Senator COUZENS. Yes; you read off 953.

Mr. CROWLEY. No; 953,000 was the secured.

Senator COUZENS. But you didn't read it off that way.

Mr. CROWLEY. I beg your pardon.

Senator TOWNSEND. What was the condition of the State banking system when you started to admit banks into your fund on January 1, 1934, and what has been done to correct the practice?

Mr. CROWLEY. When the Federal Deposit Insurance Corporation first examined banks applying for membership, it found that there were 732 banks, with deposits of about $690,000,000, which were wholly without net sound capital. In other words, the total——

Senator TOWNSEND. How many banks?

Mr. CROWLEY. Seven hundred and thirty-two. In other words, the total of the amounts of the assets which the examiners considered doubtful and loss was equal to or more than the book capital of these banks. There were 723 additional banks, with deposits of $860,000,000, which were in the danger class, since the net sound capital in those banks was less than 5 percent of the deposits. In other words, there were 1,450 nonmember State banks which the Corporation considered to be in an extraordinarily weak condition, since they showed practically no net sound capital. These banks showed approximately $155,000,000 of book capital.

Through the activities of the Corporation it has been possible to improve the net sound capital through the introduction of local and R. F. C. funds in over 1,250 of the 1,450 banks which were originally considered to be precariously weak. In place of having $1,550,000,000 of deposits in weak banks, which was the case at the inauguration of deposit insurance, we now have only $310,000,000 of deposits in about 200 weak banks.

Considering all of the State nonmember banks together, we find that the net sound capital has increased from $484,000,000 to $812,000,000, an increase of over 60 percent. Upon first examination, the combined net sound capital of nonmember State banks constituted about 45 percent of the book capital. On our most recent examinations net sound capital constitutes about 70 percent of the book capital.

The increase in net sound capital has been brought about by the following developments:

(a) Improvement in the condition and value of certain assets originally criticized, between the time of the first and last examinations;

(b) The removal of bad assets from the banks by directors;

(c) The injection of new capital;

(d) Charge-off of further loss items; and, finally,

(e) The changed point of view of examiners.

We estimate that the State nonmember banks still have well over $300,000,000 of doubtful and loss assets on their books which should be written off. The current earnings, plus recoveries, but before write-offs were taken during the year 1934, amounted to $92,000,000. At this rate it will take the 7,700-odd State nonmember banks between 3 and 4 years to absorb all losses which at present stand on

their books, assuming, of course, that no additional losses in the assets of the banks are incurred.

Senator TOWNSEND. Do you know how many banks have been reorganized and given a charter since you started?

Mr. CROWLEY. Yes; I have that, Senator.

The CHAIRMAN. Mr. Crowley, I note that you recommend that all dividends on the stock of a bank be eliminated. That, of course, would transform the Treasury contribution into a gift.

Mr. CROWLEY. Well, I presume that you might refer to it as that, Senator.

The CHAIRMAN. That is what I wanted it to be, from the first.

Mr. CROWLEY. There is no need of leaving the dividend provision in, because there will be no way we can pay dividends.

The CHAIRMAN. Well, there ought to be some dividend. I don't agree with you about that. There ought to be some way to pay dividends, but I agree that the contribution by the Treasury ought to be made in recompense for the enormous amount of money that the Treasury took from the banks and didn't earn a dollar of it. Now——

Senator BULKLEY. May I ask a question to clear up a matter?

The CHAIRMAN. Yes.

Senator BULKLEY. I am not quite clear in my own mind as to what banks the Federal Reserve System audits and checks. There are the State member banks?

Mr. CROWLEY. The State member banks; yes, sir.

Senator BULKLEY. That is their function?

Mr. CROWLEY. Yes, sir; as far as examination is concerned.

The CHAIRMAN. Member banks and State member banks?

Mr. CROWLEY. No; they do not examine national banks.

The CHAIRMAN. The Comptroller of the Currency does that, but they have authority to do it, to make the audit, too.

Senator BULKLEY. And I understand the practice of the Federal Reserve System is to examine member State banks, is that right?

Mr. CROWLEY. That is correct.

Senator BULKLEY. And how often do they do it?

Mr. CROWLEY. I think they do it at least once a year.

Senator BULKLEY. Is that all?

Mr. CROWLEY. Yes. The Federal Reserve Board examines State member banks about once a year.

Senator BULKLEY. And you find that examination adequate for your corporation?

Mr. CROWLEY. Well, under the law, we must accept that examination.

Senator BULKLEY. Under the law; well, I asked you if you found it adequate.

Mr. CROWLEY. I think that the Corporation should have the right to go into any bank, if it felt that it was necessary to protect itself, and we have asked that, with the consent of the Comptroller, we might go into any national bank to try to work out a merger, where we might be subjected to loss, and we are asking for the same right in the Federal Reserve member bank.

Senator BULKLEY. In the Federal Reserve Bank System you say you rely solely on the Comptroller's examination so far as national banks are concerned?

Mr. CROWLEY. We do.

Senator BULKLEY. Do you find that adequate?

Mr. CROWLEY. Yes, but there are instances where I think it necessary that we have the power, with the consent of the Comptroller and the Federal Reserve Board, to join in examinations of national banks and State member banks, particularly in proposed mergers and consolidations.

Senator BULKLEY. I see. Thank you.

The CHAIRMAN. Mr. Crowley, let me review a section from existing law, which prescribes that the Federal Reserve Board shall from time to time limit by regulation the rate of interest which may be paid by member banks on time deposits, and may prescribe different rates for such banks on time and savings deposits having different maturities or subject to different conditions respecting withdrawal or repayment or subject to different conditions by reason of different location. What did you take that to mean?

Mr. CROWLEY. Well, we assumed this, Senator, that it meant the Federal Reserve had the power to regulate the interest on time deposits of any member bank, and then we assumed that we had the power under our act to cooperate with them and fix the rate of interest on members of the fund.

The CHAIRMAN. I know that was the assumption, but with respect to the Federal Reserve Board, what do you think that language means? Doesn't it clearly imply that the proponents of this law and that the Congress thought there was a good reason why the rate of payment should be different according to different maturities or subject to different conditions respecting withdrawal or repayment or subject to different conditions by reason of different localities?

Mr. CROWLEY. I think that is what they intended.

The CHAIRMAN. Otherwise, we wouldn't have put that in.

Mr. CROWLEY. I think that is practical, too, Senator, because some parts of the country get a higher interest.

The CHAIRMAN. Senator Bulkley, who was a member of this committee as originally constituted, will recall that we discussed that very intently and for a long time. Do you think there is any more reason why a payment on time and savings deposits should be uniform throughout the country than there is a reason why discount rates should be uniform throughout the country?

Mr. CROWLEY. No; I think, Senator, the interest rate should be determined by regional districts, taking into consideration the interest charged on loans for that district.

The CHAIRMAN. Well, I am glad to hear you say that, because that has been my contention. In other words, a bank that is limited by State taxes in its current discount rate to 5 percent, as is the case in Michigan and in one other State, or to 6 percent, as is the case in Virginia and is the case in most of the eastern banks, ought not to be restricted in its payment of interest on these deposits, as the western banks and some southern banks which charge 8 and 10 and 12 percent for the use of the depositors' money.

Mr. CROWLEY. That is correct.

The CHAIRMAN. In other words, a bank that is restricted to 5 or 6 percent in its discount rate or, rather, a bank that is allowed 8 or 10 or 12 percent for the use of these depositors' money, can afford to pay more to those time and savings depositors than a bank that is restricted to 5 or 6 percent; isn't that true?

Mr. CROWLEY. That is right. Senator, you asked me a question about reorganizations.

Senator TOWNSEND. Yes. Do you think that the Corporation should have the right to combine the assets of closed banks?

Mr. CROWLEY. We have proposed that this power be extended to us until July 1, 1936, for these reasons: There are certain banks whose existence cannot be economically justified, that is to say, their size and location precludes the possibility of their making sufficient earnings. There are others whose distressing condition is such as to make it advisable for them to either close or consolidate with some other bank. It would be helpful to this Corporation if we had the authority to purchase the assets of some of these banks in order to bring about consolidations or mergers. Our liability would thereby be greatly reduced.

Senator BULKLEY. Why do you recommend the date of July 1, 1936?

Mr. CROWLEY. In order to give us an opportunity to observe the practical results of operation the date was arbitrarily chosen. I do think, however, there is danger of this power being abused, and that, therefore, it ought to be used only in extreme cases. The Corporation would gain nothing if it purchased the bad assets from banks that had been badly managed, and if State commissioners would later recharter another bank with the same old management.

The CHAIRMAN. Adverting to the payment of time and savings deposits.

Mr. CROWLEY. That was on open banks, Senator. Now, on the matter of closed banks, there may be instances where we have 90 percent of deposit liability, we may wish to do the same thing as with the closed bank, merging part of the assets. There are no limits to that.

Senator TOWNSEND. I think you were interrupted in answering my question about the number of banks there were reorganized and newly opened.

Mr. CROWLEY. Since July 1, 1933, there have been 404 newly licensed banks admitted to the fund with deposits of less than $100,000, 251 with deposits of less than $150,000, 399 with deposits of less than $250,000, and 467 with deposits of less than $500,000.

The CHAIRMAN. How many banks closed from 1920 to 1933?

Mr. CROWLEY. About 11,000, Senator, closed, excluding those which suspended and later reopened. I would like to show you the size of these banks.

The CHAIRMAN. Yes.

Mr. CROWLEY. Since 1920, in 1920 you had 6,548 banks, with loans and investments of under $150,000.

The CHAIRMAN. Do you call those banks?

Mr. CROWLEY. From 1921 to 1931, 3,504 of that size suspended. I would like at this point to call your attention to the fact that there

is grave danger that we are traveling the same road that led to the wholesale licensing of banks and the appalling number of closings. In order to avert a repetition of the mistakes that have been made in the past, it seems to me that it is necessary to give this Corporation powers we are seeking so that we will not have to admit to membership in the fund, banks which cannot economically survive.

The CHAIRMAN. How many of the banks that failed, that closed, were State banks, and how many national banks? Have you stated that?

Mr. CROWLEY. We have that here, Senator. From 1921 to 1933, inclusive, about 1,800 national banks suspended and did not reopen. More than 9,000 State banks suspended and did not reopen.

The CHAIRMAN. What is the average size of the banks now in your fund?

Senator TOWNSEND. Pardon me, before you pass that. Does it give you the amount? What was the amount of the total deposits of the 11,000 State banks?

Mr. CROWLEY. They were very small, Senator, on an average. The total in suspended State banks was about $4,000,000,000. In the national banks, it was about $1,700,000,000. Deposits of banks which reopened are not included in these figures.

Now, the size of the banks in our fund. We have 1,502 banks with deposits of $100,000 and less. They are made up of 94——

The CHAIRMAN. With deposits of what?

Mr. CROWLEY. $100,000 and less. They are made up of 94 national, 22 State member banks, and 1,386 State banks. The insured liability of those banks is 91.67 percent. So you can see what our liability is in that particular group of 1,502 banks.

From $100,000 to $250,000, there are 3,580 banks; 834 of them are national, 119 are State members, and 2,627 are State nonmember banks. And we have an insured liability there of approximately 87 percent of all those banks.

From $250,000 to $500,000, there are 3,109 banks; 1,261 are national, 186 are State members, and 1,662 are State nonmember banks. We have an insured liability there of 83 percent.

From $500,000 to $750,000, there are 1,477 of them; 741 are national, 97 are State members, and 639 are State nonmember banks; with an insured liability of approximately 80 percent.

Or in 9,668 banks, 2,930 are national banks, 424 are State member banks, and 6,314 are State nonmembers. We have an insured liability of 80 percent or greater.

The CHAIRMAN. Well, how many of these banks do you think might be so small that they may not remain economically sound and that they will involve you in losses?

Mr. CROWLEY. Our figures show that all of the State nonmember banks, amounting to 7,700 banks, operated at a net loss of $115,000,000 for the year 1934. This is after taking into consideration their current net earnings of $54,000,000, their recoveries of $38,000,000, and their write-offs of $206,000,000.

As an example of what the banks' earnings were, let me call your attention to the 1,200 State nonmember banks that have total deposits of less than $100,000. These banks operated at a net loss of

$2,900,000, or about $2,400 per bank after taking into consideration recovery and write-off of losses. On the average, operating expenses of these banks were only $700 less per bank than operating earnings—in other words, I am not taking any losses at all. The operating income of the average bank of $100,000 and under was only $700 before they considered losses. After they took out their losses, they operated in the red.

The banks with total deposits of from $100,000 to $250,000 of which there are 2,500 showed a total loss for the year of almost $10,000,000, after taking into consideration recoveries and write-offs. On the average, each of these 2,500 banks had current earnings which were only $1,800 more than their current expenses.

In other words, this group of from $100,000 to $250,000 had average earnings before losses of $1,800 a year.

The CHAIRMAN. Isn't it conceivable, Mr. Crowley, that if that sort of thing should continue, the losses of your Corporation will be incredibly large?

Mr. CROWLEY. Senator, you cannot hope to keep this Corporation solvent unless you either give it tremendous income, or unless you give it supervisory powers and the right to correct unsound practices, because by the very nature of their earning capacity these banks cannot keep themselves clean because any kind of a loss which they will have will eat up any earnings they have and adversely affect their capital position.

The CHAIRMAN. Adverting to this payment on time and savings deposits, have you any provision in title I relating to that?

Mr. CROWLEY. No, Senator; after my conversation with you that time, I left that out.

The CHAIRMAN. You left that to the Federal Reserve?

Mr. CROWLEY. No; we haven't any provision at all for State banks. You recall, you and I discussed that. I think there should be a provision in our law, Senator, to apply to the State nonmember banks.

The CHAIRMAN. And have the rate of payment relating itself to the rate of discount?

Mr. CROWLEY. That is correct, sir.

The CHAIRMAN. Let me ask you this: It has been stated elsewhere that nonmember banks have been or will be exempted from the obligation of becoming members of the Federal Reserve Banking System by July 1, 1937. I think you very clearly recall the details of this provision of the existing law, and the President and the Secretary of the Treasury, then Mr. Woodin, were apparently irrevocably opposed to insurance of deposits. But they finally became convinced that it might be a desirable experiment, only because it seemed very probable that it would bring about approximately a unified banking system by compelling all insured banks to come into the Federal Reserve System. Do you alter that provision of the law in your title I?

Mr. CROWLEY. No, Senator; we leave that, as it was agreed last year to extend it until 1937.

The CHAIRMAN. Yes.

Mr. CROWLEY. And that is in your bill just as it was agreed last year.

The CHAIRMAN. What is your judgment as to the proposition of eliminating that requirement?

Mr. CROWLEY. I think this, Senator: If the Government is going to insure deposits, and really this is a Government fund because the money comes from the Government; if it is going to assume the responsibility, it should try to centralize the control of these banks, and that is one way you can centralize the control of all State nonmember banks.

The CHAIRMAN. But I don't agree that it is a Government fund. It is a fund derived from assessment on banks. Of course, a part of the fund——

Mr. CROWLEY. Senator, if we are going to have to pay the same proportion of losses in the future as the depositors suffered in the past, I don't think the banks can finance that fund themselves.

The CHAIRMAN. Well, I don't understand that anybody connected with this administration, or perhaps I might say, though it is a venture, that anybody connected with this committee now investigating this matter is in favor of Government guarantee of deposits. We have provided for a bank guarantee of deposits.

Mr. CROWLEY. Well, I think that is true.

The CHAIRMAN. Of course, the Government has made what some people call a contribution and what I call compensation, by the Treasury putting in some money, but that is all, that is all of the Government's liability. What I want to arrive at directly is whether or not you think we cannot ever have a unified banking system unless this requirement remains?

Mr. CROWLEY. I think that is the first step in a unified banking system, and I think in time to come, Senator, that you have got to come to a unified banking system if you are going to reduce these losses materially.

Senator BULKLEY. Mr. Crowley, I don't understand your statement that the banks cannot finance this insurance. Didn't you just testify that the saving in interest alone, the savings by the banks in the payment of interest at the bank and on accounts is about equivalent to the amount necessary to carry the whole thing?

Mr. CROWLEY. Yes; but of course it doesn't mean that you can take all that saving, Senator, from these banks, because some of that saving was brought about by their own voluntary act, since they could not employ these funds any more profitably, and naturally they had to reduce the amount they could afford to pay for them. In other words——

Senator BULKLEY. Are you testing the bank's ability to pay by their earnings in these very depressed times?

Mr. CROWLEY. No; we have gone over a period of a great many years' bank earnings. But what I say is this, Senator, that the first thing you must do is to avoid the losses of the past. Because, certainly, our banking system has demonstrated that it had many weaknesses in it. If we are going to have the same amount of losses in the future as we have in the past——

Senator BULKLEY. There is no doubt about that. There are many things that can be done.

Mr. CROWLEY. I think the banks can finance this plan provided the Corporation is given the power to protect itself, particularly in not permitting State supervising authorities to indiscriminately charter new banks and make the Corporation take them into the fund. If we are to assume the liability comparable to the one we are now carrying in 9,668 banks, we must have the right to protect ourselves.

Senator BULKLEY. Does the law now make you take them into the fund?

Mr. CROWLEY. Yes, sir; under the law we must admit a bank into the fund if its assets equal its deposit liabilities.

Senator BULKLEY. Now, I understand what you are driving at.

The CHAIRMAN. Mr. Crowley, speaking of the banks financing this insurance, it has been suggested, and for myself I can entirely concur in the suggestion, that instead of having an annual stated assessment from the banks, make an assessment on the banks until your fund reaches a given strength, say, a half billion dollars, and when that shall have been done that the assessments cease automatically until that fund shall become impaired, say, by 25 percent, and then automatically the assessments be resumed. What would you have to say about that?

Mr. CROWLEY. You mean our surplus shall be $500,000,000, or until we build a surplus of $500,000,000?

The CHAIRMAN. What do you call a surplus? What is the nearly $400,000,000 that you have now? What is it there for?

Mr. CROWLEY. A part of that will become capital, of course, and part of it will be used for surplus.

The CHAIRMAN. What do you need with capital?

Mr. CROWLEY. We don't particularly need it. As a matter of fact, I think most of our present funds should be transferred to surplus.

The CHAIRMAN. It was put there to pay losses, insure deposits. What I mean is that when that sum reaches a half billion dollars, that then the assessments upon the banks should automatically cease, and whenever it shall become impaired by 25 percent, the assessments automatically resumed.

Mr. CROWLEY. Now, that would depend upon this: If you would keep that building of the fund to $500,000,000, and then let us continue to assess or start to assess again when our fund was impaired, we will say, 20 percent, that it seems to me might be satisfactory.

The CHAIRMAN. Yes.

Mr. CROWLEY (continuing). Which would bring it to $400,000,000.

The CHAIRMAN. Yes.

Mr. CROWLEY. But, you see, if you had a 50-percent impairment, which will——

The CHAIRMAN. Nobody has suggested 50 percent.

Mr. CROWLEY. On the basis of the present proposed annual assessment of one-twelfth of 1 percent it will require a great many years to build the fund up to $500,000,000. I can see no great objection to putting a cap somewhere along the line to provide that the maximum amount of the fund may not go beyond a reasonable amount.

Senator BYRNES. Otherwise you would be accumulating a fund from which there is no immediate benefit. It does seem it would be unnecessary.

Mr. CROWLEY. It will be a long time before we get up to $500,000,000, Senator. Now, if you want to put a cap in there at that place, I don't see any great objection to that.

Senator BYRNES. You say a long time. What is your estimate?

Mr. CROWLEY. I would say it would be 10 years, Senator, before you got it up after deducting your losses.

The CHAIRMAN. Would not that largely depend upon what your losses would be?

Mr. CROWLEY. Yes, sir; that is right, Senator.

The CHAIRMAN. And if the banking business progresses, gets on a better, more expanded basis, why it wouldn't take so long, would it?

Mr. CROWLEY. No; that is correct, Senator. It will all depend on how successful you are in improving your banking system so as to eliminate losses.

The CHAIRMAN. It has been suggested, Mr. Crowley, that the bank examination agencies now in existence should be centralized in one agency. What have you to say about that?

Mr. CROWLEY. I think, Senator, there is much to be said in favor of a central examining system, however, I doubt if examinations can be centralized before 1937, when it is required that all State banks enter the Federal Reserve System. At present I think there would be much resentment toward any Federal examining agency other than the Insurance Corporation making the required examinations of the 7,800 nonmember State banks. Up to date our relations with the nonmember State banks which are members of the fund, as well as with the greater number of the State banking authorities, have been quite satisfactory. I feel very strongly that during the next year or two the Insurance Corporation must give the banks in the fund very close attention and supervision. I think that in the next 2 or 3 years there must be some changes in your banking laws, but that is a matter that should be given very careful study and consideration. I am opposed to the hasty passage of far-reaching changes in the banking laws without sufficient time and study being devoted to them. One important question is what should be done in order to give to small communities banking service, some of which are not in position to raise independent local capital.

The CHAIRMAN. How do you propose to eliminate the unsound and uneconomic banks? I believe you said you wanted authority to merge and consolidate.

Mr. CROWLEY. I think, Senator, that unsound and uneconomic banks should be eliminated through the process of merger or consolidation whenever possible. The Corporation is asking for the authority to purchase assets wherever advisable, in order to effect mergers and consolidations when in the best interests of the depositors and the Corporation. We are asking for certain powers which will give us some discretion and latitude in the matter of admitting newly chartered banks. This is in accord with the universal practice of insurance corporations generally, who have the right to pass on what risks they are going to assume. With the wide-spread acceptance of deposit insurance amongst bankers and the increased confidence of depositors in the plan, membership in the fund will tend to become more and more attractive and necessary. I think

this will tend to eliminate the hasty and ill-advised chartering of new banks when it is realized that the Corporation does not have to admit indiscriminately any bank which applies for membership.

The CHAIRMAN. Would not that situation be very materially helped by a system of State-wide branch banking?

Mr. CROWLEY. I think so; there are certain communities that are entitled to certain banking service, but they can't support a bank with capital and keep it in a sound position.

The CHAIRMAN. Mr. Crowley, could you be back here at 10:30 Monday morning?

Mr. CROWLEY. Yes, Senator.

The CHAIRMAN. All right, please do that.

Mr. CROWLEY. Thank you.

(Whereupon, a recess was had at 12:25 p. m. to 10:30 a. m., Monday, Apr. 22, 1935.)

BANKING ACT OF 1935

MONDAY, APRIL 22, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Byrnes, Bankhead, Townsend, Couzens, and Cutting.

Senator GLASS. The committee will please come to order. Mr. Crowley, will you come forward and resume?

STATEMENT OF LEO T. CROWLEY, CHAIRMAN OF THE BOARD, FEDERAL DEPOSIT INSURANCE CORPORATION—Resumed

Senator GLASS. Mr. Crowley, we were proceeding with your examination, and there are some few further questions that some of us would like answered. I, particularly, want to ask you what would be, in your judgment, the effect upon the insurance of deposits scheme if all State banks are to be permitted to join the Deposit Insurance Fund upon the mere payment of the assessment and not required to come into the Federal Reserve System and comply with the provisions of that System?

Mr. CROWLEY. Well, Senator, that's a very difficult question for me to answer on account of our limited experience with the plan of insurance of deposits. It seems to me that the answer depends upon a number of factors, which obviously cannot be determined at this time. For example, the manner in which the Corporation is administered, its relations with the various supervising authorities, the public's acceptance of the plan, and the attitude of bankers will all be determining influences.

Senator GLASS. What was the purpose of this requirement that they become members of the Federal Reserve System after a given period of years?

Mr. CROWLEY. Well, my understanding of the purpose was this: That when this act was agreed upon, it was agreed upon to set up the insurance corporation with that provision in it that you were going to be able to strengthen your banking system by having new members in your Federal Reserve System.

Senator GLASS. That we are going to be able to get approximately a unified banking system? Was it not your understanding that that is the real reason the President agreed to that provision in the law?

Mr. CROWLEY. I was not here at that time, Senator, but I understood, from what you have told me, that that is the reason that the President agreed to that provision.

Senator GLASS. That is the only reason that the President, and the then Secretary of the Treasury, Mr. Woodin, agreed to that provision of the law. As I understand it, we have approximately 7,000 State banks who are voluntary members of the Deposit Insurance Fund?

Mr. CROWLEY. That is correct, Senator.

Senator GLASS. Have those banks the right to withdraw from the fund at any time?

Mr. CROWLEY. They have the right to withdraw, Senator, by giving us 30 days notice prior to June 30 of this year. Under the law we give them the right to withdraw, but we are also asking that they notify their depositors when they are going to withdraw.

Now, the reason for that is this: When you have an unsound or a badly managed bank that requires supervision, and in order to evade your supervision they may attempt to withdraw from the fund, so that in order that those banks cannot withdraw we say to them that they must notify their depositors, and we will protect the old depositor for a period of 2 years. Now, the new depositor, after he is once put on notice, puts his money in the bank at his peril.

Senator GLASS. Well, would it not be reasonable to suppose that bank directors would have to call meetings of their stockholders to discuss the question of withdrawal?

Mr. CROWLEY. I do not think it is as necessary for them to discuss the question with the stockholders as to notify the depositors, because they have an interest in those banks by reason of assessment. I believe they should have knowledge before they withdraw from the fund.

Senator GLASS. Therefore, do you think it important for the bank to know the attitude of their stockholders and depositors at a reasonably early period?

Mr. CROWLEY. I do, Senator.

Senator GLASS. You think, then, do you, that there is occasion for the speedy enactment of title I of this bill?

Mr. CROWLEY. I do, because opportunity must be given to those banks now in the fund to withdraw if they so desire. If the proposed bill is not enacted the original permanent fund goes into effect July 1 of this year. Moreover, the Corporation should be given time to make administrative adjustments that will be necessary before the proposed bill takes effect. Since there is such a short period of time before the permanent fund provided in the existing law becomes effective, we find a great number of bankers are vitally interested in the passage of the proposed bill for the reason that they consider it inadvisable to continue as members of the Corporation unless the proposed changes are made. It is my opinion that unless the present bill is passed a great number of institutions will not avail themselves of the opportunity of membership in the permanent fund.

Mr. L. E. BIRDZELL (general counsel, Federal Deposit Insurance Corporation). At the beginning of that statement, Mr. Crowley said that under the law we are operating under now. That should be, under the proposed bill.

Senator GLASS. Do you recall how many banks the R. F. C. has propped up by loans?

Mr. CROWLEY. By loans and also preferred stock or a debenture——

Senator GLASS (interposing). Well, preferred stock is a loan, is it not? What else is it?

Senator COUZENS. Is there not a difference whether it is a preferential creditor over the preferred stock? So it is not preferred over a depositor, while a loan would perhaps come in there?

Senator GLASS. Well, I am told that nine tenths of the banks which have sold their preferred stock sold it upon their own volition and upon application to the R. F. C., and not upon request of the R. F. C., and they sold it in order to be propped up.

Mr. CROWLEY. Senator, I think that is correct. I do not think R. F. C. has ever asked any bank——

Senator GLASS (interposing). It has asked some few banks——

Mr. CROWLEY (interposing). What I mean, Senator, is the rank and file, to sell their preferred stock.

Senator BULKLEY. It has asked some.

Senator BYRNES. Are you connected with the R. F. C.?

Mr. CROWLEY. No; I am not, Senator.

Senator BYRNES. And yet you attempt to say what they have done?

Mr. CROWLEY. What I mean, is, that they have not asked it of the supervising agency.

Senator BYRNES. You mean they have not asked you?

Mr. CROWLEY. They have not asked us.

Senator BYRNES. Can you say they have not asked the others?

Mr. CROWLEY. I say, of the supervising agencies, that I have suggested.

Senator BYRNES. I thought you said they have not done it.

Mr. CROWLEY. No; we have all done it.

Senator BYRNES. Than you agree that all banks are propped up?

Senator GLASS. For what reason, Mr. Crowley?

Senator BYRNES. Answer the chairman's question first, and then I will take this up.

Senator GLASS. No; you go ahead.

Senator BYRNES. You agree that these banks have been propped up?

Mr. CROWLEY. Sure.

Senator BYRNES. How many of them?

Mr. CROWLEY. Five thousand four hundred and twelve.

Senator BYRNES. They all needed propping up?

Mr. CROWLEY. That is right, Senator.

Senator BYRNES. What would have happened if they had not been propped up?

Mr. CROWLEY. I do not know. It might have wrecked your banking system.

Senator BYRNES. And you talk about loans on preferred stock?

Mr. CROWLEY. The reason I say what I do about preferred stock, is, they sold preferred stock, and the owner had to take class B of the R. F. C., and maybe a loan for class C.

Senator GLASS. I suppose it would not have wrecked the entire banking system, because more than 85 percent of the banks resumed operations with licenses after the banking holiday.

Senator COUZENS. You do not take that seriously, do you?

Senator GLASS. I do not think that percentage of banks was sound, because the Secretary of the Treasury admitted to me that he had licensed at least 1,000 unsound national banks or insolvent national banks. But what I mean, is, banks that were properly conducted—and there were many thousands of banks that were properly conducted and would not have been very much affected by the failure of banks that were improperly conducted, for the reason that individual banks failed to create consternation among the depositors of the country anyhow. It was my theory—it is not particularly pertinent here—it was my theory that every rotten bank in the country should have been permitted to fail at the time we were having bank failures, and then we would not have any trouble now.

Mr. Crowley, I believe I understood you to say that you were a member of what was called this committee of experts to prepare banking legislation. You were a member of that committee?

Mr. CROWLEY. I was a member of the loan committee, if that is what you mean, Senator.

Senator GLASS. Yes. And, as I recall, you said you had nothing to do with any provision of this bill except title I?

Mr. CROWLEY. Our board of directors and the legal department drafted title I and submitted it to the committee.

Senator GLASS. Yes. And you hoped that would be acted upon separately from any other provision in the bill?

Mr. CROWLEY. Well, that was decided; that was our original thought, Senator, but the President decided that he wanted it kept together, and told us so.

Senator GLASS. Yes; and he afterwards decided that he was willing to have them separated, and then again decided that he would like to have them kept together.

How did you propose to eliminate the unsound and uneconomical banks hereafter?

Mr. CROWLEY. I think what has got to happen, Senator, on that is that the Corporation will have to make a survey of each State and try to determine the banks that, by their size, or for other reasons, cannot operate soundly, and try to bring about eliminations by the purchasing of assets and consolidations, and then, of course, by having power to restrict the rechartering of that same type of bank in the future.

Senator COUZENS. You mean the Federal Deposit Insurance Corporation has the power to charter?

Mr. CROWLEY. No; I mean that we have the power, Senator, with the banks that come into our fund. We have no power to charter a State bank.

Senator COUZENS. Or any national bank?

Mr. CROWLEY. That is right. But we ask for the power that if a State commissioner should charter a bank that we think is economically unsound, that we may not have to admit it to our fund. That is the protection we are asking for.

Senator GLASS. That is the protection the Corporation is seeking against the chartering of a lot of small and uneconomic banks hereafter?

Mr. CROWLEY. Well, the experience in the past, Senator, has been this: That not only in small banks, but in lots of communities they

have had 2 or 3 or 5 banks where really the community could only support 2 banks, and it is a question of the banks having an earning capacity that they may keep themselves sound.

Senator GLASS. What has been your experience with State bank commissioners on the examination of State banks? Have they cooperated with you?

Mr. CROWLEY. May I answer that off the record for the time being?

Senator GLASS. Yes; off the record.

(There was discussion off the record.)

Senator GLASS. Now, then, what provision have you for the dismissal of banks from the membership of the fund that seem to your Board to be unworthy of insurance?

Mr. CROWLEY. I believe I have already outlined the procedure we desire, namely, the giving of notice to the bank and supervising authority.

Senator GLASS. What percentage of the State banks that are now in your fund could qualify for membership in the Federal Reserve Banking System, do you think?

Mr. CROWLEY. You mean the capital requirement, Senator?

Senator GLASS. Well, I mean the capital requirement—perhaps that is the only point upon which you are informed. But there are other requirements as well.

Mr. CROWLEY. There are 5,387, Senator, on June 30 that could have qualified; and 2,134 that could not.

Senator GLASS. They have from now until July 1, 1937, to be placed in position to qualify?

Mr. CROWLEY. For those 2,134 banks to qualify, it will take $55,583,000 to put them in condition to qualify. The deposits in those 2,134 banks are $502,000,000.

Senator GLASS. Well, do you think your fund would be entirely safe unless they should qualify and become members of the Federal Reserve System?

Mr. CROWLEY. Well, I think it all depends, Senator, on what power you give our corporation.

Senator TOWNSEND. You mean, whether or not we give you the power as designated in this bill?

Mr. CROWLEY. Well, I think you have got a problem all the way through your whole banking system that you have got to consider in the next few years, and that is how to give these communities banking service. There are a great many communities now that need banking service; they have none, and yet they are not able to raise sufficient capital. I think the whole principle of this thing goes back to a correction of your whole banking system and making certain changes that are going to give to your corporation better protection, and strengthening of the banking system.

Senator GLASS. Do you think a branch banking system, Statewide, would do that?

Mr. CROWLEY. It might. There are something like 17 States that have no branch banking, whereas 30 or 31 do permit it. In my opinion there must eventually be a thorough study of our entire banking system made, at which time the subject of branch banking ought to be impartially discussed.

Senator GLASS. Of course, that is an essential feature of branch banking, you have to determine those matters.

What provision have you in this bill to protect your Corporation against a reduction of capital in the banks which are now insured?

Mr. CROWLEY. We are asking for the authority, Senator, that no bank will reduce its capital without the consent of our Corporation. We are asking for that after some experience of going out and getting these banks to come into the R. F. C. to take some aid, only to find that in some of them we just get their capital rebuilt and they go out and confuse liquidity with capital and want to repay the R. F. C. before they are in position to do so.

Senator GLASS. Well, what provision have you against an insured bank merging with a noninsured bank?

Mr. CROWLEY. We are asking for the prevention of mergers, that where they are attempting to merge with a noninsured bank, that they will not do it without our consent. The reason we are asking that is this: We have permitted them to come in on occasions, and then they have merged without our consent. In other words, we took the liability that we formerly had refused.

Senator GLASS. I believe you provide in your title I that the temporary clause of the existing law as to the limitation upon insurance shall be permanent; that is to say, $5,000 insurance?

Mr. CROWLEY. Yes, Senator; we do.

Senator GLASS. Gentlemen, do you have any questions?

Senator BYRNES. I would like to ask him one question.

Mr. CROWLEY. Yes; Senator.

Senator BYRNES. What power is contained in this bill as to the determination of admission to the system of State banks? Exactly what power is contained in this bill?

Mr. CROWLEY. You mean admission to our fund, Senator?

Senator BYRNES. Yes.

Mr. CROWLEY. All the banks that are now members, Senator, we wash right into the permanent fund. They do not have to go through any formality to come in at all. Now, on a bank that is duly licensed—and there are some 1,100 outside our fund—we are asking that those banks have more than just enough capital and surplus to meet the solvency test. They must have a reasonable capital to provide a protective cushion for the deposits.

Senator BYRNES. You make an examination of those banks, do you not?

Mr. CROWLEY. Well, Senator, under the temporary law we have only the authority to determine whether they have sufficient to pay the deposits. We cannot ask that they have an excess. Do you get the point?

Senator BYRNES. Yes.

Mr. CROWLEY. Now, what we are asking for in this bill is that, in addition to the meeting of the deposits, that they also have sufficient capital to protect their depositors; and also, in the case of a new bank, that they be an economic necessity to that community.

Senator BYRNES. Do you remember the number of the section in which that is provided?

Mr. BIRDZELL. I will give you that reference, Senator.

Senator BYRNES. I do not want to read it at this time.

May I ask another question: You gave the number of banks that have bought preferred stock of the R. F. C.?

Mr. CROWLEY. Yes, Senator.

Senator BYRNES. Will you give me that figure again, of the total number of banks?

Mr. CROWLEY. Five thousand four hundred and twelve banks, Senator.

Mr. BIRDZELL. That reference you asked for, Senator, is on page 9 of the bill, paragraph 7.

Senator BYRNES. That number of banks, Mr. Crowley, is the number in which preferred stock was purchased?

Mr. CROWLEY. And debentures.

Senator BYRNES. Out of how many banks?

Mr. CROWLEY. Out of 14,200 insured banks, Senator, and the amount of money is $821,000,000.

Senator GLASS. You said to Senator Byrnes that you are washing in all of the banks that you have now insured; but you have a provision in here under which you could wash some of them out, have you not?

Mr. CROWLEY. If they do not conduct themselves properly, Senator.

Senator GLASS. Yes.

Mr. CROWLEY. In other words, they will not have to go through the qualifying stages again. They are already members of the fund and they stay members as long as they stay in good standing.

Mr. BIRDZELL. May I add one observation there. Under the terms of the existing law every bank that came in under the temporary fund was made eligible to subscribe for class A stock, so they would be automatically qualified for class A stock anyhow.

Senator GLASS. I understand, but they might very easily become disqualified.

Mr. BIRDZELL. Yes, sir.

Senator GLASS. Mr. Crowley, we are very much obliged to you.

Senator BYRNES. May I ask one other question?

Senator GLASS. Certainly.

Senator BYRNES. Really, the discretion that you seek in section 7 is practically the same discretion that is exercised by the Comptroller in chartering a national bank?

Mr. CROWLEY. That is right, Senator.

Senator BYRNES. Almost the same thing?

Mr. CROWLEY. That is right. Back in 1920 you had 30,000 banks. Now you are down to about 15,000 banks. And when you had 30,000 banks, you had too many for your country, and what we are trying to save is the growth back to the 30,000.

Is that all, Senator?

Senator GLASS. That is all.

Mr. CROWLEY. Thank you very much.

Senator GLASS. Thank you very much, Mr. Crowley.

(Supplemental data submitted by Leo T. Crowley is as follows:)

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, D. C., April 12, 1935.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

MY DEAR SENATOR: The attached summary of public opinion concerning the Federal Deposit Insurance Corporation has been submitted by the National

Emergency Council. We are calling it to your attention, feeling that you will share our pleasure in the almost universally favorable reaction it mirrors.

The report is based on current interviews conducted by State directors of the emergency council among banking, industrial, and businessmen so that it presents an accurate and concise estimate of the national opinion of deposit insurance.

Very truly yours,

LEO T. CROWLEY, *Chairman.*

SUMMARY OF PUBLIC OPINION CONCERNING FEDERAL DEPOSIT INSURANCE CORPORATION

Alabama.—Never any criticism of this activity. Stands highest in public opinion of all emergency measures; has restored confidence in banks and resulted in greatly increased deposits.

Arizona.—Apparently public very favorable to Federal Deposit Insurance Corporation. This agency has restored confidence in all banks and undoubtedly exerted considerable influence in abolishing hoarding on the part of the people who had previously felt that banks were unsafe and that they should keep their money in cash at home. Every bank in this State except one is a member. Information at hand indicates that the citizens of the district where this bank is located are very dissatisfied and are not depositing their funds in this bank due to the fact that it does not have deposit insurance. Considerable interest expressed by public in the announcement that deposits in building and loan associations might be insured. General summary would be that the public is very much interested in continuation of deposit insurance and that it is a very determining factor in restoring and maintaining confidence in the banking institutions.

Arkansas.—Representative bankers advise that public reaction to Federal Deposit Insurance Corporation is 100 percent favorable. Great majority of bankers also favorable, but believe present limit might wisely be reduced to $2,500. Two bankers state they are strongly opposed to plan in principle. None interviewed has ever heard criticism of insured deposits by customers.

California.—Public opinion strongly back of Federal Deposit Insurance Corporation, despite objections of some larger banks to paying premiums.

Colorado.—Public opinion here practically unanimous in favor of Federal Deposit Insurance Corporation.

Connecticut.—Public seems entirely indifferent to present Federal Deposit Insurance law. Some 12 or 13 banks in Connecticut have not subscribed to plan and their deposits have not been affected. Some depositors inquired of their banks about this insurance when it became effective, but none has mentioned it to the Hartford banks in months. There is no demand here for increasing amount of insurance above $5,000 as 95 percent of all accounts are fully protected under present law. No Connecticut savings banks subscribed to plan because of adverse opinion of State attorney general. I can find no objection by savings-bank depositors. State director personally feels that the present $5,000 limit is sufficient in Connecticut. This State has been particularly fortunate in having very few bank failures.

Delaware.—Due to fact that no bank failures occurred in Delaware, the public has shown little interest in Federal Deposit Insurance Corporation. Contacts made are all favorable.

Florida.—Have contacted 20 various business houses. Everyone heartily endorses the Federal Deposit Insurance Corporation. Believes this sentiment universal in Florida.

Georgia.—Federal Deposit Insurance Corporation was welcomed by great mass of people. Has been important factor in restoring confidence in banks, particularly smaller institutions. Regarded by many as one of most constructive steps in present national administration. Increased savings deposits in many banks believed traceable to insurance plan. While activities not subject to general discussion now, individuals and business, especially smaller business, finding satisfaction in safety provided by its operation.

Idaho.—Deposit insurance remains the cornerstone of public confidence in banks. Bankers admit Federal Deposit Insurance Corporation has produced solid public confidence in banks. Public opinion overwhelmingly favorable and confidence in banks remains solid with deposits increasing.

Illinois.—Report not received up to April 12, 1935.

Indiana.—Has restored confidence in banks.

Iowa.—Public reaction to Federal Deposit Insurance Corporation definitely favorable. Small depositor, which includes savings depositor, is very favorable to insurance of deposits. Best evidence of this is literally hundreds of cases reported to us of money taken from postal savings, from hoardings, and from larger banks in border States and deposited in Iowa banks after inception of Federal Deposit Insurance Corporation. There is some disposition to the belief that insurance is so satisfactory to the depositor that he does not seek other investments. It tends to restore confidence in the bank and thereby stabilizes banking conditions and satisfies small depositor, who as a rule is the cause of runs on banks. Public is grateful and happy for benefits of Federal Deposit Insurance Corporation.

Kansas.—Banks now beginning to fully appreciate the value of this activity with the result that an increasing number are subscribing. It has greatly increased confidence in financial institutions. However, many banks still remain without insurance.

Kentucky.—Much appreciated by public generally. Resulted in growing increase of deposits in all banks. Smaller banks quite enthusiastic. Some larger institutions feel their independence, objecting to expense of operation. These objections made some months ago but little protest at present time. Unquestionable demand for retention of act.

Louisiana.—My opinion public reaction Federal Deposit Insurance Corporation present act should be made permanent. Adds stability and confidence in banks, decentralizes and distributes deposits and eliminates the chance of run on banks from small depositors. Some bankers indifferent and feel their institutions command confidence without insurance feature. Small banks in country generally favorable to deposit insurance.

Maine.—Public sentiment favorable to Federal Deposit Insurance Corporation. Maine commercial banks favor this. State savings banks have centrally managed liquidity fund.

Maryland.—Activities progressing quietly.

Massachusetts.—Report not received up to April 12, 1935.

Michigan.—From every source I get only favorable public reaction to Federal Deposit Insurance Corporation. Belief quite general that this agency is reestablishing faith in banks. Increased deposits in Michigan banks best proof of renewed confidence.

Minnesota.—Agency has done outstanding work and 95 percent of banks in this State are insured. Public well informed and very favorable toward this activity. Agency 100 percent efficient and popular with both public and banks. Exceedingly popular and has produced great public confidence in banks.

Mississippi.—Public opinion appears entirely favorable to Federal protection.

Missouri.—Reaction of public and State banking department to Federal Deposit Insurance Corporation is universally favorable. Deposits substantially increased. More than 500 State banks have voluntarily come under Federal Deposit Insurance Corporation, and only 40 have not. Most of these 40 are small or family banks and expense is deterring factor. The favorable public reaction is general over entire State and also the four-State area. It is recognized as an essential part of the bnking system.

Montana.—Has greatly restored confidence and receives almost unanimous acclaim.

Nebraska.—Agency has made a fine record in this State with a high percentage of deposits now insured.

Nevada.—After experience of last 3 years when banks were blowing up like firecrackers in Nevada, depositors unequivocally approve deposit insurance plan. They are not interested in howl of big banks who may have to carry premiums for some of their weaker brethren. They feel this latter will be an incentive to insist on good banking practices and will insure national supervision and inspection.

New Hampshire.—About 1 out of 50 know anything about it. New Hampshire Bankers Association reports public neither informed nor interested. Reaction nil.

New Jersey.—There is little comment concerning this agency, but it is believed that this activity has full public support.

New Mexico.—Have heard of no comments either pro or con in New Mexico.

New York—Public reaction to Federal Deposit Insurance Corporation not widespread but generally favorable. Larger banks in Manhattan protest

method of assessments claiming only insurable amounts of deposits should be taxed. Otherwise not opposed, although unenthusiastic.

North Carolina.—General public reaction most favorable. Find in contacting number of bankers, who will eventually help mould public opinion, in vast majority think $5,000 coverage sufficient and favor definite premium sufficient to cover, but to be lowered if justified later. Majority favor premium on insured deposits only. Five thousand limit covers 95 percent depositors banks this State.

North Dakota.—Public attitude and editorial comment uniformly favorable.

Ohio.—Program has been exceptionally beneficial and remains least criticized of all emergency agencies.

Oklahoma.—Public reaction reveals this is one Government program with which general public will go all the way. No derogatory comment to Federal Deposit Insurance Corporation was made in interviews with large number of Oklahoma business men and individual depositors. Editors and newspaper clipping bureaus report State-wide approval of program as reflected in press. Increased deposits indicative of restored confidence. Group 4 of Oklahoma Bankers Association in convention at Ardmore yesterday passed resolution recommending titles 1 and 3, Congressional Banking Act of 1935, and commending work of Federal Deposit Insurance Corporation. Group 5 in Tulsa today expected to pass similar resolution according to secretary of association. These group meetings represent approximately 450 eastern Oklahoma bankers. State banking commission reports only two failures in State banks since inception of Federal Deposit Insurance Corporation. Continuance of Federal Deposit Insurance Corporation under competent management felt essential to continued faith in banking system.

Oregon.—Has produced desirable feeling of security of average citizen in his bank account.

Pennsylvania.—Has functioned very successfully and restored confidence. Has greatly strengthened banking system, although many small banks, due to limited capital, criticize the provision compelling them to join the Federal Reserve System by July 1, 1937, in order to maintain their insured status.

Rhode Island.—Banking situation here unusually strong, therefore, except for added confidence due to Federal Deposit Insurance Corporation, difficult to determine public reaction.

South Carolina.—Has restored confidence in banks. Comment is frequently expressed that this program is one of most important in "new deal." Public has great faith in this activity.

South Dakota.—Comment wholly favorable, with the exception of a very few bankers who are opposed to the principle of this activity.

Tennessee.—Has restored public confidence in banks.

Texas.—Well staffed and functioning effectively.

Utah.—Public unanimously for Federal Deposit Insurance Corporation, although some bankers and financial interests remain skeptical.

Vermont.—Public reaction to Federal Deposit Insurance Corporation quiet but favorable. About half the banks use their participation in their advertising. Bank public apparently take it as an accomplished fact and rely upon it, although not particularly outspoken in their comment.

Virginia.—Report not received up to April 12, 1935.

Washington.—Has resulted in vastly improved banking conditions and a general increase in deposits, although need is seen for means to enforce provisions of Federal Deposit Insurance Corporation.

West Virginia.—Public reaction to Federal Deposit Insurance Corporation quite sympathetic and deposit insurance has stimulated confidence in banking institutions. Deposits have materially increased. Bankers, however, are opposed to proposed amendments to existing law now pending in Congress.

Wisconsin.—Don't hear about it. Deposits on increase. Only through restatement of fact that money is in circulation, do we know about its works. Banks favorable.

Wyoming.—Banks noncooperative toward this activity.

LOSSES IN THE COMMERCIAL BANKING SYSTEM FROM 1864 to 1934

It is estimated that losses sustained in the commercial banking system over the past 70 years by depositors and others have amounted to about $14,000,000,000. The figures are summarized in the following table:

Losses in commercial banks, 1864–1934

[Amounts in billions of dollars]

Losses	All commercial banks	National banks	Other commercial banks
To despitors in suspended banks	3.3	1.2	2.1
To stockholders in suspended banks	1.7	.6	1.1
Written off in active banks [1]	7.9	3.7	4.2
Not yet written off [1]	1.3	.6	.7
Total	14.2	6.1	8.1

[1] Less estimated recoveries.

The figures of losses to depositors in suspended banks were obtained from the study made by the Division of Research and Statistics of the Federal Deposit Insurance Corporation. The figures of losses to stockholders in suspended banks and of losses written off in active banks were computed in the case of national banks from data published in the reports of the Comptroller of the Currency. The data did not cover all of the years and in some cases estimates were necessary. The character of the figures were such that it is believed that the estimates contain relatively small errors. The corresponding figures for other commercial banks were estimated on the assumption that the experience of these banks was the same as that of national banks. This assumption has been justified by our study of suspended banks and by other fragmentary data available.

The figures of losses not yet written off were estimated, in the case of national banks, on the basis of the Comptroller's report on loss and doubtful loans, and of the relation of losses on securities to losses on loans over recent years. In the case of other commercial banks, the figures for State member banks were estimated on the assumption that the experience of these banks would be the same as that of the national banks. The figures for insured State nonmember banks were obtained from our examination reports. Figures for uninsured commercial banks were not included.

It is believed that these figures are probably correct to within 10 percent of the results shown.

Now, Mr. Comptroller, will you please come forward?

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY

Senator GLASS. Mr. O'Connor, you are Comptroller of the Currency, are you?

Mr. O'CONNOR. Yes, Senator.

Senator GLASS. And have been for how long?

Mr. O'CONNOR. Since May 11, 1933.

Senator GLASS. You are a member of the committee which was asked to prepare what was regarded as essential banking legislation, are you not?

Mr. O'CONNOR. No, sir.

Senator GLASS. You are not a member of that committee?

Mr. O'CONNOR. No, sir. But I was invited in by the Secretary of the Treasury and attended a number of the meetings, Senator.

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Senator GLASS. Yes. Well, then, you did not see this bill until it came up here, did you?

Mr. O'CONNOR. You mean the completed bill?

Senator GLASS. Yes.

Mr. O'CONNOR. Oh, yes; title III, I had all to do with—my office. And title I, dealing with Federal deposit, I am quite familiar with all of the provisions of that, Senator, but not title II. I know very little about title II.

Senator GLASS. You did not see that until it came up here?

Mr. O'CONNOR. No. I think probably the day before it came up there was some discussion of it.

Senator GLASS. Well, as to title III, are there any alterations in that title that you care to suggest now?

Mr. O'CONNOR. Yes, Senator; there are just a few. Senator, can I hand the committee a copy of the corrections in title III?

Senator TOWNSEND. That you desire?

Mr. O'CONNOR. Yes; in title III.

Senator GLASS. Yes. Well, without going into those matters in great detail, unless some member of the committee wants to do that, there are one or two major matters that I want to interrogate you about.

It has been suggested as extremely desirable, if not exactly essential, that the bank-examining agencies be consolidated into one agency. I should like to know what you think about that.

Mr. O'CONNOR. That same question, Senator, was asked before the Banking and Currency Committee of the House, of myself, and in view of the fact that it involved my office I did not think it was your question, I believe it would be highly desirable if we could have centralized examinations.

Senator GLASS. Well, what is there of an improper nature?

Mr. O'CONNOR. The fact that I happen to be Comptroller and proper to say where those examinations should be. But, to answer that I was asking that those functions be transferred.

Senator GLASS. Well, the Comptrollership is an office; it is not an individual. And I cannot discover momentarily anything of an improper nature in the question, and I cannot imagine that it would be at all improper for you to suggest where the consolidated agency should be located. Of course, we understand, without your answering the question—at least, I think I do—that you think it should be in the Comptroller's office; and that Mr. Crowley thinks it should be in the Federal Deposit Insurance Corporation; and, very likely, the Federal Reserve Board thinks it should be in the Federal Reserve Board. So, if it embarrasses you, I will not press the question.

Senator BYRNES. Mr. Chairman, I agree with you in your first request. Assuming it to be a fact, I should like to know his reasons for thinking it should be in the Comptroller's office.

Senator TOWNSEND. He might state the reasons why it should be in one agency, as he sees it.

Mr. O'CONNOR. The Comptroller is on all three boards, and, therefore, from that angle it is rather impersonal. He is on the Federal Reserve Board, and on the Federal Deposit Insurance Corporation Board, and also Comptroller of the Currency. But the longest experience in the Government in this connection has been in the Comp-

troller's office. For over 70 years they have built up the procedure. When the Federal Deposit Insurance Corporation came into existence and it was necessary to examine these nonmember State banks, that organization was set up in the Comptroller's office to begin with, before the actual organization of the Corporation—before the two members of the Board were named by the President—not officially, but the framework, because nothing could be done until the Board met and approved it. And that examination was conducted in this way, which seems to have been successful and met with the approval of Congress and the people: One of the best national-bank examiners was placed at the head of every State examining staff with as many assistants as we could give him, and then along with him and under him were placed men who knew the values of property in that State, and who had experience in banks, all working under the direction of the national-bank examiner in that State. The importance of that was that the State bank examiner had the contact with the officials here in Washington, and he knew who to call on for matters requiring attention here; and it was not necessary that he get in touch with us for instructions as to how banks should be examined. That was done in that way, and they were all brought within the fund, as you know, with very few exceptions in the country.

Now, the question I would like to clear up, Senator, is the question of the so-called "duplication of examinations." There is no such thing in the Government as duplication of examinations. There is no one who enters into a national bank, except an examiner who is duly appointed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury, as the law provides, except in one instance. If the bank makes a deal with the Reconstruction Finance Corporation, and the bank and the Reconstruction Finance Corporation go in as partners and provide for some kind of an examination, it is entirely a voluntary matter between the bank and the R. F. C. That is the only instance in which anyone goes into a bank except a duly accredited representative of the Comptroller's office.

The Federal Reserve Board examines State banks, and that work is done in cooperation with the examiners of the various States, making examinations, I believe, once a year. The law requires the Comptroller to make two examinations every year of national banks.

Now, the only other agency that makes examinations in Washington is the Federal Deposit Insurance Corporation, and they examine State nonmember banks which are members of the fund. And no other agency goes into those banks on the part of the Federal Government.

I want to say that I have not found any complaint, or none has been registered so far as I know as a member of the three offices or departments, that there has been any criticism on the part of the States directed against the Federal Deposit Insurance Corporation, or the Federal Reserve Board, in working together for the examinations of those State banks. I have not found any on the part of the States. And I want to be sure to clear up the question that there is no duplication of examinations. I have seen many statements made

that examiners from two or three departments go into those banks, which is not true.

Senator GLASS. Well, while it is practically a fact that there may be no duplication of bank examinations, as a matter of law the Federal Reserve Board is authorized at any time it pleases to examine a member bank.

Mr. O'CONNOR. The law provides it may make special examinations, Senator.

Senator GLASS. Yes.

Mr. O'CONNOR. Yes; that is the wording of the law, which they have never exercised, because they have access to our records.

Senator GLASS. They have access to all your data?

Mr. O'CONNOR. Yes, sir.

Senator BYRNES. Your contention is, as a practical matter, then, there is no duplication?

Mr. O'CONNOR. There is no duplication. There are no two examiners that go into a bank representing the National Government, which is duplication of examination, Senator.

Senator GLASS. But when all of those State banks come into the Federal Reserve System, as they are required to do by July 1, 1937, will they be examined by the Comptroller's office or by the Federal Deposit Insurance Corporation?

Mr. O'CONNOR. Well, if they become members of the Federal Reserve System, then, of course, they would not, under present statutes of Congress, be examined at all by the Comptroller's office, under the present statute.

Senator GLASS. Well, they would be examined by the Federal Deposit Insurance Corporation examining board?

Mr. O'CONNOR. No, sir.

Senator GLASS. And then that would not constitute a duplication? You would not examine them?

Mr. O'CONNOR. No; I would not examine them.

Senator GLASS. And the Corporation would not examine them?

Mr. O'CONNOR. No; the Corporation would not examine them. There would be no necessity.

Senator GLASS. They would be examined under the authority of the Federal Reserve Board?

Mr. O'CONNOR. Yes; just as they accept their examinations now.

Senator BYRNES. So far as the banks are concerned, they are not annoyed by duplication of examinations?

Mr. O'CONNOR. No, sir.

Senator BYRNES. But the fact is the Government has two sets of examiners under the present organization?

Mr. O'CONNOR. Yes, sir.

Senator BYRNES. Making examinations?

Mr. O'CONNOR. Yes. Now, that is the proper way to state the whole problem that is so misunderstood.

Senator GLASS. Under the law the Corporations—I mean both the Federal Reserve Board and the Federal Deposit Insurance Corporation—have access to your data?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. Your examinations of banks?

Mr. O'CONNOR. Yes, Senator.

Now, here probably is the foundation for the criticism that sometimes comes with reference to those examinations, to be very pointed. If you have a town, which happens very often, where you have got a national bank, and you have got a member bank, and you have got a State nonmember bank in the town, you have got three sets of examiners from the Federal Government going into that town; you have got the national-bank examiner going in there with his assistants, and he has no authority to go into the others; you have the Federal Reserve Board examiner, with his assistants, going in there; and you have the Federal Deposit Insurance Corporation examiner going in there.

Senator BYRNES. From the standpoint of administration, what you have in mind is that if an examiner went there he should examine the three institutions on one trip, instead of sending him, and then another examiner, and then still a third examiner?

Mr. O'CONNOR. I am just pointing out, Senator——

Senator BYRNES (interposing). That is the criticism?

Mr. O'CONNOR. Yes; that is the one criticism, that we have a duplication. There is no duplication in the town.

Senator BYRNES. Would it tend to efficiency if it was concentrated in one force?

Mr. O'CONNOR. Well, there could be only one answer to that, Senator.

Senator BULKLEY. Well, would it not make a better examination and prevent the possibility of switching cash accounts?

Mr. O'CONNOR. That is very true.

Senator GLASS. Passing that for the time, let me ask you if it is not true that under title III there is in it a provision to extend the time when bank officials who are now indebted to their banks may pay off their indebtedness?

Mr. O'CONNOR. Yes; we have recommended, Senator——

Senator GLASS (interposing). I know there is a recommendation, but is it embodied in title III?

Mr. O'CONNOR. It is also in title III that we extend time for payment to 1938. And you have raised a very serious question, Senator. That was section 22 of the Federal Reserve Act, and it is section 12 of the printed act of the Federal Reserve Act. On June 16 of this year the provision that executive officers must no longer be indebted to their bank expires; you gave them until June 16 of this year, and Congress fixed extraordinarily heavy penalties for an executive officer to become indebted or to be indebted to his bank after that date. He shall not be indebted to the bank after that day under a penalty of 1-year prison sentence or a fine of $5,000, or both, and the bank may be fined $10,000 and a sum equal to the amount of the loan.

Senator GLASS. Well, contrasted with penalties provided for the N. R. A., do you regard that as very excessive penalties?

Mr. O'CONNOR. Well, I do not know what those penalties are, Senator. I have all the trouble I want taking care of my office.

Senator BYRNES. It would depend on the size of the loan, too, would it not?

Mr. O'CONNOR. Yes; it would, of course. And, reverting again to this section with these drastic provisions in it, I believe there is only one option for an executive officer who owes a bank on June 16

of this year, and that is to resign if title III is not passed, not by June 16, which is a very short time, but a considerable period before, because these men must be given an opportunity to arrange their indebtedness to do something, to either resign or——

Senator BYRNES. Let me ask you about that. When was he given notice to rearrange his loan?

Mr. O'CONNOR. Two years ago; in 1933.

Senator BYRNES. He will have 2 years on June 16?

Mr. O'CONNOR. That is right.

Senator BYRNES. During this time, as a general thing, have banks been in position to make loans?

Mr. O'CONNOR. Oh, yes.

Senator BYRNES. There is no statement today that the banks have not funds sufficient to make loans upon good security, is there?

Mr. O'CONNOR. Oh, no; they have the funds, we all know that.

Senator BYRNES. Do not you think in 2 years the bank officers have had fair notice to make arrangements for a loan other than their own banks?

Senator GLASS. That depends on the officers, does it not, and the facility to pay?

Mr. O'CONNOR. I think, Senator, you would have to go into each individual case.

Senator BYRNES. It means you have 2 years at a time when there is ample capital. It depends on the kind of security the officer has up with his bank?

Mr. O'CONNOR. That is right.

Senator BYRNES. And if the security is not adequate it is about time something is done, is it not?

Mr. O'CONNOR. They have done something, Senator. It may interest you to know that when you passed this bill the officers owed about 90 million dollars—that is from the records I have access to; and they have reduced that approximately 33 percent, getting ready for what Congress has asked them to do. They have reduced their indebtedness to that extent.

Senator BYRNES. I think it was responsible for a whole lot of our trouble, excessive loaning on the part of officers.

Senator TOWNSEND. Does that apply to the private loans, or to the companies that he might be associated with?

Mr. O'CONNOR. It is direct loans. And there is also the indirect loans to officers, which amounted in round figures to $40,000,000. That has been reduced about the same percentage.

Senator GLASS. You do not understand that Senator Byrnes is so well situated that he can pay off his loans on call, and some of the balance of us have to take longer than 2 years. I am not an executive officer of a bank, nor any other sort of an officer, even a director, but there have been times in my business career when I would not have liked a bank to call my loan within 2 years, because I could not pay it.

Senator BYRNES. It is a question of his arranging with some other bank to finance his loan instead of his own.

Senator GLASS. Then he has to go through a process of getting the consent of his board of directors and so on and so forth.

Senator BYRNES. Yes.

Senator BULKLEY. Mr. O'Connor, as those loans have been reduced from $90,000,000 to $60,000,000, has that resulted in a good many of them being cleaned up?

Mr. O'CONNOR. I was just trying to find that information by looking in the place where it would appear. I would say no. They have just liquidated out, trying to be able to reduce their indebtedness to carry out the wishes of Congress.

Senator BULKLEY. Do you know how many accounts are involved?

Mr. O'CONNOR. Individuals?

Senator BULKLEY. Yes.

Mr. O'CONNOR. I haven't that data.

Senator BULKLEY. Well, then, you probably could not express an opinion as to how badly it would disturb the banks if their executive officers that are in that predicament that they cannot pay their loans should resign on June 16?

Mr. O'CONNOR. No.

Senator BULKLEY. Could you look that up and give us an opinion about that tomorrow?

Senator TOWNSEND. The fact that a great number of them have not been paid, Mr. O'Connor, is not conclusive that they are not good, is it?

Mr. O'CONNOR. Oh, no. They are probably slow loans that under the instructions that are given to examiners by the Comptroller, that they are not to suggest to the bank how they shall handle slow loans, that a slow loan is a good loan. The bank has no reason to press that for payment. It is a sound loan; it has good security, and the taxes are paid and the interest is paid.

Senator TOWNSEND. And the bank wishes the loan——

Mr. O'CONNOR. Well, they certainly need it.

Senator TOWNSEND (continuing). In a great many cases?

Mr. O'CONNOR. They certainly need the loans in a great many cases.

Senator BULKLEY. On the other hand, if these loans were very good, they could be refunded somewhere else, could they not?

Senator TOWNSEND. Of course, they could be refunded somewhere else, but the bank wishes the loan.

Senator GLASS. The statute provides that they may borrow from other banks with the consent of their boards of directors and after due notice.

Senator BULKLEY. Yes.

Mr. O'CONNOR. Senator, may I read this section, because I have also incorporated as a suggestion in the bill that the matter of the extension of the loan must be passed on by the directors, so that we will get the full picture before the directors of the bank, in addition.

Senator GLASS. All loans have to be passed upon by the directors.

Mr. O'CONNOR. Usually by a committee, Senator.

Senator GLASS. But the directors have to confirm what the committee does.

Mr. O'CONNOR. That is right.

(g) No executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers: *Provided*, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for

periods expiring not more than five years from such date where the board of directors of the member bank shall have satisfied themselves that such extension nor renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by a resolution of the board of directors spread upon the minute book of the bank.

Senator TOWNSEND. What is the time of the extension?

Mr. O'CONNOR. 1938, that would be, Senator.

Senator BULKLEY. Is that your law?

Mr. O'CONNOR. That is in the law, Senator.

Senator BYRNES. That is in the bill.

Mr. O'CONNOR. That is in the bill.

Senator BULKLEY. Well, that is in this new bill we are considering now?

Mr. O'CONNOR. Yes.

Senator BULKLEY. Is that what you recommend?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. However, would it be practicable to require that the renewal shall be conditioned on some actual reduction being made in the loan in these last 2 years? The language in the bill is "that an effort shall be made."

Mr. O'CONNOR. Well, my answer, Senator, would be that the examiners look into these matters. In other words, these loans, if they are taken out of the bank and charged against the bank, if they are good loans and if the examiner finds that they have been making payments and reducing them and they are in good standing, I think it could be left safely to the examiner.

Senator BULKLEY. The question I am asking now is whether we ought not to put in this bill the requirement that there must have been some reduction of the loan.

Mr. O'CONNOR. Yes.

Senator BULKLEY. Understand, I am not arguing the matter; I am simply trying to find out.

Mr. O'CONNOR. I understand that. Well, with 30 percent paid, I assume that that would not be a necessary requirement.

Senator BULKLEY. It shows some of them can reduce their loans.

Mr. O'CONNOR. Because one-third has been paid?

Senator BULKLEY. Yes. And that third might have been distributed among almost all the accounts there are?

Mr. O'CONNOR. That is right.

Senator BYRNES. You are proposing to extend it until 1938?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. Mr. Comptroller, if there are no further questions on that point, you are a member of the Deposit Insurance Corporation, and the question has arisen as to the method of assessing banks. There are two suggestions—one of one-twelfth of 1 percent and another of one-eighth of 1 percent—and there is a suggestion that instead of an annual assessment upon the banks, which might result in the accumulation of a very great and unnecessary fund, that the banks be assessed until there is accumulated a fund of a half billion dollars and that then the assessment automatically ceases until that fund shall have been impaired to the extent of 25 percent, and the assessments automatically resumed when that shall have occurred. What would you say to that?

Mr. O'Connor. Well, I heard your question on Friday, Senator, to Mr. Crowley on that point, and Mr. Crowley's answer, and I have been giving it some study since Friday, assuming, although not knowing, that I might be asked that question.

I cannot see any objection, Senator, to providing that in the bill, for two reasons. First, because in going over a period from 1921 to date, I find that under an assessment of one-twelfth of 1 percent on the total deposits, that we would have had a surplus in our fund in 10 of those years, and they were quite bad years. In four of them we would have had a deficit. But two things must be kept in mind: First, with deposit insurance, I don't believe we would have had the critical condition because of the confidence that Federal deposit insurance has given. And, secondly, because of the borrowing power that is provided for in your 1933 act, we would be able to borrow the money to take us over the 4 bad years, and then pick up the assessments again, which to me, gives me the greatest optimism as to the future of the fund.

Senator Glass. Well, you do not look for a repetition any time within the next 100 years of those 4 bad years, do you?

Mr. O'Connor. No; I would rather not be around if they are going to come. But, you see, in those 4 years, which were the worst in the history of banking of this Nation, while the bill provides that we might borrow three times the capital of the Corporation, it would not have been necessary to use the credit that you permitted us to use in the bill to more than one and a half of the capital structure in the very worst years and then to pick up the assessments, together with the liquidation of banks, which occurs very fast, especially during the first year after they are closed, and of course that is added to the fund.

Senator Glass. It is very likely you could not have borrowed a cent in those 4 years, is it not?

Mr. O'Connor. I am assuming we were going to get it from the Government, which is provided for.

Senator Glass. It has been suggested by Senator Townsend, and others who are absent, that we recess at 12 o'clock until tomorrow. Is there any objection to that?

Senator Byrnes. No objection.

Senator Glass. Can you be here for a little while tomorrow?

Mr. O'Connor. Yes, sir.

(Thereupon, at 12 o'clock noon, a recess was had until 10:30 a. m., Apr. 23, 1935.)

BANKING ACT OF 1935

WEDNESDAY, APRIL 24, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building (having been adjourned on Apr. 23, 1935, on account of a lack of a quorum), Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Byrnes, Bankhead, Townsend, Couzens, and Cutting.

Senator GLASS. The committee will come to order. We have a quorum. We are to hear this morning Mr. James P. Warburg. Mr. Warburg will please take a seat over there opposite the committee reporter. I am hearing Mr. Warburg this morning because he finds it necessary to go to Europe on Friday. I had not contemplated calling him until the officials of the Federal Reserve Board had first been heard; but, owing to his arrangements, it is desirable to hear him this morning.

STATEMENT OF JAMES P. WARBURG, VICE CHAIRMAN BANK OF THE MANHATTAN CO., NEW YORK

Senator GLASS. Mr. Warburg, please give your name and your occupation to the committee reporter.

Mr. WARBURG. My name is James P. Warburg; vice chairman Bank of the Manhattan Co., New York.

Senator GLASS. You are the son, Mr. Warburg, of the late Paul M. Warburg, who was for many years a member of the Federal Reserve Board?

Mr. WARBURG. Yes, sir.

Senator GLASS. And also, he was a member of the Aldrich Commission to investigate banking matters?

Mr. WARBURG. Yes, sir.

Senator GLASS. I wanted to have that stated, so that the committee might understand your background.

Mr. Warburg, we have before us S. 1715. You have familiarized yourself with the provisions of the bill, have you?

Mr. WARBURG. Yes, sir.

Senator GLASS. We would be glad to have any comment that you might desire to make to the subcommittee.

Mr. WARBURG. Mr. Chairman, I am grateful for this opportunity to come before you, particularly in view of the amazing reticence on

the part of the banking profession to appear and discuss this bill. I speak for no group or institution, but I am very glad to state my own position without fear or favor, with as much clarity as I can muster, and to this end I have prepared a statement which I would like to present to you.

The proposed Banking Act of 1935 consists of three titles. I shall confine myself to a discussion of title II, which deals with the proposed amendments to the Federal Reserve Act. I shall do this for the same reason that if someone were to say to me, "I am going to do three things for you: Buy you a dinner, buy you a drink, and cut your throat", I would not waste very much time choosing my drink or ordering my dinner.

Let me state at the outset that I am unequivocally opposed to the present enactment of title II of the proposed bill, with or without modifications. I say this for three reasons: (1) Because I am convinced that no amount of changes which might be made in this section of the bill would in any way alter its fundamental purpose or materially alter the practical results of its enactment; (2) because I profoundly disagree with the fundamental purpose of this section of the bill; and (3) because there is no present emergency which necessitates hasty action, whereas there is every reason why a matter of such far-reaching effect upon the future economic welfare of the country should be given the most careful study by competent authorities.

The statement released to the press by Marriner S. Eccles, Governor of the Federal Reserve Board, on February 8 as well as subsequent testimony before the House committee, clearly defined the purposes which motivate the suggested enactment of the proposed measure.

Before dealing with the bill itself, it is therefore advisable to consider the statements of Governor Eccles. At the beginning of his statement of February 8, the Governor said:

> The chief purposes of the proposals for changes in our banking laws, insofar as they relate to the Federal Reserve System, are the following:
> 1. To accelerate the rate of economic recovery.
> 2. To make our banking and monetary system, which was designed under the conditions prevailing prior to the World War, more responsible to our present and future economic needs.
> 3. To prevent a recurrence of conditions that led to the collapse of our entire banking structure in the spring of 1933.

I have no quarrel with these three general purposes, but I emphatically disagree that the proposed measure will contribute toward their realization.

To begin with, I do not believe that the enactment of title II will in any accelerate the rate of economic recovery. I say this because if the present fiscal and monetary policies are designed to accelerate recovery—which I for one do not believe they are—these fiscal and monetary policies are certainly not being impeded today by any obstacles that would be removed through the enactment of the proposed measure. The Federal Reserve System is today the obedient servant of the Administration, even though by law it is intended to be an independent authority. I fail to see how the mere legalization of the present status would in any way accelerate recovery.

Now, as to the other two purposes:

I do not quarrel with Governor Eccles' statement that "the banking system of this country has not been able to stand up under the strain of the depression", but I disagree that our banking system failed, as the Governor implies, under circumstances in which another system, particularly the banking system now proposed, would not have failed.

It seems to me quite obvious that a phenomenon such as a world-wide economic depression has its origin in a multiplicity of causes—in the case of this depression causes which seem to me linked very largely to the waste, dislocations, and strains incident to the World War and to the failures of political governments everywhere. It seems to me quite obvious that in the face of what has happened in the world since August 1914 no banking system in this country could have been able "to stand the strain of the depression."

Governor Eccles goes on to say that the banking system of this country has been unable to lend effective support in the fight against the depression. If he is referring to 1932 and early 1933, I agree with him. If he is referring to the banking system as it is today, I must disagree. The banking system today is glutted with billions of idle dollars waiting for business and industry to come and borrow them.

It does not follow, however, that I consider our banking system a perfect system or even a good system; nor that I am opposed to making changes in it.

On the contrary, I testified over a year ago before this committee and before the House Committee on Coinage, Weights, and Measures as to the need for thorough-going reform of our banking system.

The point I wish to make is that even if we had had a better banking system we should at best have avoided the ultimate spasms of collapse—and then only if we had had better business and political leadership than that which guided the destinies of our Nation in the post-war decade.

The second point I wish to make is this:

Granting the need of banking reform—which no one admits more readily nor has urged more assiduously than I—it does not follow that what is now proposed is the right answer to our problem.

Governor Eccles says:

> The principal measures contemplated in the proposed legislation, therefore, are designed to remedy deficiencies now inherent in the banking structure itself.

Taken in connection with the rest of the Governor's statement, and in connection with the bill he proposes, it would seem that "the deficiencies now inherent in the banking structure" consist very largely in (1) a lack of complete control by the political administration over the operations of the Federal Reserve System, at least insofar as these operations affect the national interest; and (2) in the existence of certain superfluous restrictions upon the extension of credit by the Federal Reserve banks and by the commercial banks.

These, it would seem, are the deficiencies which the proposed bill seeks to remedy.

Leaving aside for the moment the question of other and perhaps more real deficiencies of our present system, let us examine the theoretical background upon which the present proposal rests.

Governor Eccles says:

Underlying the proposed changes in the banking laws are fundamental economic and monetary considerations, the wide-spread influence of which has not been adequately understood.

In fact, the lack of an adequate understanding of these fundamental considerations was an important factor in bringing about the disastrous collapse of our economy, which culminated in the closing of all the banks in the spring of 1933.

Fluctuations in production and employment, and in the national income, are conditioned upon changes in the available supply of cash and deposit currency, and upon the rate and character of monetary expenditures.

The effect of an increased rate of spending may be modified by decreasing the supply of money and intensified by increasing the supply of money. Experience shows that, without conscious control, the supply of money tends to expand when hte rate of spending increases and to contract when the rate of spending diminishes.

During the depression the supply of money did not expand and thus moderate the effect of decreased rates of spending, but contracted rapidly and intensified the depression.

I have quoted this passage at length because it seems to me to contain the kernel of the present proposal. This kernel I should describe as "Curried Keynes", for it is in fact a large half-cooked lump of J. Maynard Keynes—the well-known British economist whose theories find more support in this country than in his own—liberally seasoned with a sauce prepared by Prof. Laughlin Currie.

Senator GLASS. Has he found any in his own?

Mr. WARBURG. Not that I know of.

I do not pretend to be an economist, and I freely confess that a recent reading of Dr. Currie's book left me hopelessly confused. Being a plain ordinary practical banker, I have learned just enough about money to know that I don't know it all and to suspect that many who think they know don't know it all either.

I have listened to Mr. Keynes argue. I have read many of his writings. I do not question the brilliance of his intellect. But I profoundly distrust the practical value of some of his conclusions.

And of all the Keynesian conclusions, the one I distrust most is the one I find imbedded in the statement of Governor Eccles, even though, as I say, it is highly seasoned with "Currie sauce"; namely that the supply of cash and deposit currency and the rate and character of expenditure control the volume of business activity.

What little I know from practical experience, and what little I have learned from recognized authorities would lead me more nearly to the opposite conclusion; namely, that under our system the volume of business activity determines the available supply of cash and credit; and that the rate and character of expenditure have their effect upon the available supply of cash and credit chiefly via their effect upon business activity.

But I am not asking you to accept my opinion as against that of Governor Eccles—much less against that of the learned gentlemen who have supplied the theoretical background of his proposal. I ask you only, before you adopt this premise, to take into consideration that you are being asked to accept a proposal which is founded upon a theory for which there is very little support among the world's recognized authorities.

And now let me deal with the two basic deficiencies with which, based upon the assumption of the Keynes theory, the present proposal is largely concerned.

The first deficiency which it is sought to cure is the lack of control over the Federal Reserve System by the political administration. In order to accomplish this purpose it is proposed to make certain alterations, first, in the organization, and, second, in the operation of the Federal Reserve System.

I am prepared to discuss each of the various items composing this program of change if you desire me to do so, but for the purpose of this general discussion it is not necessary for me to take up your time with more than a few general observations.

1. The organic changes consist of (*a*) various steps designed to strengthen the control of the Federal Reserve Board over the Federal Reserve System; and (*b*) various steps designed to place the Federal Reserve Board under the control of the political administration.

The result of these changes, if adopted, would undoubtedly be to accomplish the desired purpose; the President would have complete control over the Board—whose Governor would hold office at the President's pleasure—and the Board would have complete control over the System through its veto over the appointment of Federal Reserve bank governors and the powers to be vested in its open-market committee.

2. The changes in operation are designed to implement the purpose of the organic changes. The power to raise and lower rediscount rates, the power to raise and lower reserve requirements—not necessarily to the same extent or at the same time in the 12 Federal Reserve regions—and the power to conduct open-market operations are all vested via the Federal Reserve Board and its open-market committee in the head of the political administration.

This is the avowed purpose of the proposed legislation, and, if the proposed bill is enacted, the purpose will undoubtedly be accomplished.

3. In addition, a number of far-reaching changes are proposed which would relax existing loan restrictions that now govern the member banks and the Federal Reserve banks themselves.

My comments upon these proposals are these:

As already stated, I do not believe in the Keynes theory upon which the bill is founded.

Apart from this theory, I do not believe that the country's best interests would be served by vesting the control over the people's money in the political administration.

I say "the people's money" because that is what it is. And I am certainly not pleading for a bankers' control of the people's money.

Let me illustrate what I mean.

Speaking of open-market operations, Governor Eccles says:

> By these operations reserves may be given to or taken away from member banks; and it is on these reserves that deposits are based.
>
> It is not too much to say that the power to control open-market operations is the power to control the expansion and contraction of bank credit, and thus, in large measure, to control the country's supply of money.

Let us see how this works out in practice.

Open-market operations are the purchase or sale by the Federal Reserve banks of United States Government securities. When they make such purchases the Federal Reserve banks use the money deposited with them by the member banks. These member bank deposits—called "reserves"—are a portion of the money deposited

with the member banks by the people. The proportion so deposited is fixed by law.

That is why I say it is a question of the people's money.

That is why the existing law provides that open-market purchases shall be made by a committee on which the 12 member banks each have a voice in determining how much of the money of the people in their regions is to be invested in Government bonds.

Under the proposed modification all this is to be changed.

Under the proposed modification this is what could happen:

The New York Federal Reserve Bank accounts for about one-third of the System's holdings of Government bonds; it has about $2,108,914,000 of member-bank deposits.

Under the new scheme a committee consisting of three members of the Federal Reserve Board (one of them the Governor, who is subject to instant dismissal by the President) plus the Governors of, let us say, the Atlanta and San Francisco Federal banks, could have the sole right to determine how much of the $2,108,914,000 of money belonging to the people in the New York Federal Reserve district should be invested in Government bonds.

What is more, the Federal Reserve Board, under Governor Eccles' scheme, could willy-nilly, raise the Reserve requirements in the New York district and thus increase the proportion of the funds of that district subject to the orders of his open-market committee.

And that is not all.

Under the proposed system the same officers of political government who direct the borrowing and spending of the people's money are also to be the ones to determine how much of the people's money is to be theirs to borrow and spend.

I am not saying that it may not be wise to some extent to centralize control. I am not saying that the Federal Reserve Board does not need strengthening.

But if Governor Eccles only wants to strengthen the Federal Reserve Board as against the System, in order to bring it, so strengthened, under the control of political government, then I say better leave the present "deficiency" in our system.

All history is there, gentlemen, to show you what happens when the long arm of the Treasury reaches out into the control of the credit machinery. All history shows such proposals as this one before you to be the favorite device of spendthrift governments.

And recently they have become the favorite device of another and more dangerous group—the device of those who seek by subtle means to destroy the foundations of western civilization.

During the last year this country has been flooded with propaganda to "nationalize the banking system" to "socialize credit", and so forth. You have pending before your committee several bills whose avowed purpose is of this nature.

I am not one who sees a Communist under every bed, but I sometimes wonder if the authors of these bills realize whose game they are playing.

Listen to what Lenin, addressing the Bolshevik conference of April 1917, had to say:

> We are all agreed that the first step in this direction, i. e., toward communism, must be such measures as the nationalization of banks * * *.

We cannot at once either nationalize the small consumers' concerns, i. e., one or two wageworkers, or place them under a real workers' control. Through the nationalization of banks they may be tied hand and foot.

In his book, Preparing for Revolt, Lenin says:

It is essential to proceed immediately to the nationalization of the banks, insurance companies, and of the most important branches of industry * * *. One State bank as huge as possible with branches in every factory—this is already nine-tenths of the socialist apparatus.

And here is what Mr. G. D. H. Cole, the influential British Socialist, has to say:

Before a Labor Government nationalizes or any other productive industry industry it should nationalize the banks. With the banks in our hands we can take over other industries at our leisure.

I have more quotations from Mr. Cole, if you care to have them.

And finally, in Australia, where the proposal for nationalization has just been defeated, Mr. Lang, the Labor leader, said:

You must remember there are always first steps. You must socialize credit first. The other things will come later. If you want to go through a door you must have the key first. Socialization of credit is the key.

Not for one minute do I attribute to the authors of the bill anything but the highest motives of patriotism. Not for one minute do I suggest that they would willingly undermine the American order. But, proposals like these are charged with dynamite—no matter how innocent their origin.

Lest I be accused of opposing "nationalization" of the banking system for reasons of self-interest and in order to keep the control of the banking system in the hands of private bankers, permit me to draw your attention to two proposals I made to this committee when testifying on the Gold Reserve Act in January 1934.

One was to transfer the ownership of the Federal Reserve banks from the commercial banks to the general public. This is certainly not pleading for bankers' control of the Federal Reserve System. I believe that the Federal Reserve banks should belong to the people, but that is a very different thing from making them the tools of political government while leaving the ownership where it is in the commercial banks of the country.

Senator GLASS. You recall, Mr. Warburg—to interrupt you—that there was a serious proposal at the time the Federal Reserve bill was before Congress, to permit the people to subscribe for stock; in fact, that is embodied in the Federal Reserve bill contingent upon the failure of the banks to subscribe the stock, the people were authorized to make subscriptions to the stock.

Mr. WARBURG. Yes, sir.

Senator GLASS. That is a part of the existing Federal Reserve law. But the banks very quickly—although they said they would not—very quickly subscribed to the stock.

Mr. WARBURG. The second proposal, which I made to this committee over a year ago, concerned the reconstitution of the Federal Reserve Board with the idea of strengthening its authority over the System and providing a more harmonious working between the Board in Washington and the 12 regional banks.

So much for the first "deficiency", which Governor Eccles seeks to remedy.

129688—35—PT 1——6

As to the second "deficiency", namely, the existence of restrictions "that are now imposed on the Federal Reserve System by the Federal Reserve Act, but that experience has shown to be detrimental and impractical":

I realize that present-day thought tends away from automatic controls and in the direction of a managed currency and credit structure. Personally, I am opposed to this tendency on purely practical grounds.

As a matter of theory, I am quite prepared to admit with Mr. Keynes and his followers that it is perfectly possible to have a fiat currency secured by nothing and limited as to its issued by nothing except the principles of sound management. But, this theoretical admission leads me to no practical result, for as a practical matter, human nature being what it is, I cannot believe that any group of human beings will be wise enough and strong enough to be equal to such a task.

Least of all do I believe that the officials of a political Government who depend upon popular favor will ever do anything so intrinsically unpopular as to arrest a boom.

If private bankers with their own capital at stake were in the past unable to say "no" when they should have—were unable to arrest excessive speculation, and were themselves drawn into the whirlpool of public madness—if such warnings of the coming storm as were issued prior to the collapse of 1929 came as they did come, not from the Government but from a few courageous private bankers—why should we assume that in future a political bureaucracy, dependent upon popular favor, should be able to safeguard the public interest without any legal restrictions or automatic controls?

I do not hesitate to oppose the removal of automatic controls when such removal is combined as it is in the present proposal with a transference of management to the political Government; I am less sure of my ground when it comes to the intrinsic merit of the restrictions themselves.

It seems to me that the whole question of asset currency and the restrictions under which it should be issued is one that merits the most careful study by competent authorities, and that it is not one which should be determined by hasty legislation.

I am aware of the arguments for doing away with the orthodox ideas of a currency based on gold and commercial paper. My own feeling is that these arguments are not sound. My own feeling is that to say that we must loosen the restrictions because we have not sufficient commercial paper in the country is to put the cart before the horse. We could and should have sufficient commercial paper; and the cure lies, I think, in exactly the opposite direction.

Senator GLASS. Right on that point, Mr. Warburg, are you aware of the fact, as I am by an official document of the Federal Reserve Board itself, that there are only 21 banks in the Federal Reserve System that have any eligible paper for rediscount?

Mr. WARBURG. I know it is a small number.

The cure lies in a reorganization of our commercial banking structure and in the development of a real discount market.

To argue, as Governor Eccles argues, that since there is not sufficient commercial paper of a self-liquidating nature, we must

issue our currency against any "sound" bank asset, including long-term real-estate loans, is to pile Pelion on Ossa in the structure of error. And, not only is it no cure, but it seems to me that to issue currency against long-term real-estate loans is almost to guarantee its loss of elasticity.

Senator GLASS. Are you aware of the fact, Mr. Warburg, that in our hearings on the exchange bill the representatives of the brokerage interests in the larger commercial centers demonstrated that there had been fewer losses on brokers' loans than on any other species of loans of which the bankers had any knowledge?

Mr. WARBURG. Yes, sir.

Senator GLASS. So that to make loans on any sound proposition would enable the open market committee under this bill to go into the open market and deal in any kind of security on the New York Stock Exchange?

Mr. WARBURG. I should think so.

Nevertheless, I am not one to dogmatize because I am only too aware of the complexities of the problem; and this leads me to the chief purpose of this statement.

I believe that the whole subject matter of title II of the Banking Act of 1935 is not ripe for legislation and should be referred to an appropriate body for expert study and analysis.

It is 20 years since our currency and banking system has been thoroughly studied. In those 20 years there have been drastic changes in the economic life not only of our country but of the entire world.

We have at present a currency system which is no currency system at all. We have discarded the gold standard of the past and adopted instead a currency dictatorship which, no matter how well it may be suited to an emergency, can in no sense be termed a system adequate to meet the needs of modern economic life.

We have no banking system. What we have is a hotchpotch of remnants of partially discarded systems, upon which there is superimposed the Federal Reserve System and, latterly, an emergency structure designed to meet the crisis that arose in 1933.

Senator GLASS. Well, you say that we have no banking system. I assume that you say that in view of the fact that we have a multiple banking system rather than a unified banking system; that we have 48 States with different banking laws.

Mr. WARBURG. Yes. In fact, my next sentence is this:

Underneath the Federal Reserve System we have 49 different banking systems, each with its own ideas of law and supervision.

We have some States in which it is possible to start a bank with a capital of $10,000.

We have many States in which there are no savings banks whatsoever.

It is possible in most States for anyone, irrespective of training or qualification, to start a bank and become a bank officer.

These are only some of the "deficiencies" that I see in our present-day banking and currency system. So far as I can see, they are not even recognized by the present proposal which is "designed to remedy the deficiencies now inherent in the banking structure."

If we want a money and credit structure such as will insure the safety and flexibility to which our people are entitled, we must rebuild it from the bottom and not content ourselves with anything so superficially conceived as the proposed legislation.

In view of the vast complexity of the problem, in view of the fact that there is no present emergency which makes necessary the adoption of the drastic and fundamental changes advocated by Governor Eccles, I therefore urge this committee to consider whether it would not be far wiser to appoint a commission to study the entire banking and currency problem thoroughly and at leisure before any basic legislation is attempted.

This is not a suggestion born of fear of what the present proposal contains. It is a suggestion which I have been urging for over a year and which is contained in considerable detail in a book published last September.

In conclusion, title II is a proposal (1) to make a centralized system out of a regional reserve system; (2) to bring the system so created under political domination and control; and (3) to remove almost entirely the automatic controls inherent in the existing law.

As to these three proposals:

A. Much can be said for a stronger centralized control of the Reserve System, but I believe that much can also be said in favor of greater decentralization and greater responsibility on the part of each regional reserve bank for the soundness of the member banks within its region. One does not necessarily preclude the other, if the measures of reform are properly worked out.

B. I am unalterably opposed to political control of either a central bank system or regional reserve system for three reasons: (1) Because I do not agree with the underlying theory upon which the proposal rests; (2) because as a practical matter, I believe that political control will result in more violent business cycles than we have ever had before, for the simple reason that a political government will neither recognize an incipient boom nor have the courage to counteract it; and (3) because the proposal for political control of the banking and credit machinery is in effect a proposal to take a step defined by the Communists as the most essential step toward communism.

C. As to the elimination of automatic controls, I believe that this proposal rests upon a fundamental misapprehension as to what are the real deficiencies of our present banking system. The Banking Act of 1933 proceeded on the theory—which I think was correct—that our commercial banking system must be purified; that demand deposits should not be loaned out to finance speculative loans nor capital expenditures, and should be loaned out to finance self-liquidating commercial transactions. In proceeding along these lines, the authors of the Banking Act of 1933 were following principles arrived at by generations of study and experience.

The present proposal contemplates a complete reversal of these principles and proceeds on the assumtion that what is wrong with our banking system is the existence of precisely the type of limitation that the act of 1933 sought to impose.

If we are to fly in the face of all past experience—if we are to reverse the course in which both Congress and the administration

believed when the law of 1933 was enacted, then I think we should do so only after far more thoughtful consideration than has been given to the matter so far in the preparation of the proposal now before you.

Senator GLASS. You are aware of the fact, Mr. Warburg, that the Banking Act of 1933 was enacted only after 18 months of hearings and consideration, are you not?

Mr. WARBURG. Yes, sir.

Senator GLASS. I find you rather more progressive, if that is a correct use of that term, than I. You speak of the desirability of more centralized control. I recall your father took that view in the hearings before the Banking and Currency Committee of the House, in 1913.

But let me direct your attention to the fact that we have certain requirements in the existing law, which may have escaped your attention momentarily, which seem to me to offer a large degree of centralization. The Federal Reserve Board is authorized to remove any director of any one of the Federal Reserve banks for cause. Do you recall that?

Mr. WARBURG. Yes, sir.

Senator GLASS. The open-market committee of the existing system, composed of a representative of each one of the Federal Reserve banks, may operate only under rules and regulations adopted by the Federal Reserve Board. Do you understand that that is so?

Mr. WARBURG. Yes. I did not endorse it.

Senator GLASS. Well, that is a fact?

Mr. WARBURG. Yes, sir.

Senator GLASS. The only thing that involves local or regional action with respect to the open-market committee operations is the fact that any regional bank, by choice, may not participate in the open-market operations. In short, if the New York Federal Reserve Bank, which transacts the larger part of the open-market activities, should decide to invest in two or three million dollars of United States securities, it would ask each of the other 11 Federal Reserve banks if it desired to join in that operation, and each one of them may accept or decline the invitation, as it pleases; upon the assumption that the regional banks understand their own conditions better than the Federal Reserve Board here; that they understand the condition of their patrons, their habits, their thought, and their financial status better than a central board here; and that, therefore, the act as it exists and as it has existed for 20 years, recognizes the right of local self-government to that degree. Do you think that is not wise?

Mr. WARBURG. No, sir; I think it is wise. The only increase of centralization that I have suggested and would suggest tentatively again, is that the Federal Reserve Board consist of only 3 or 4 appointed members; and, in addition to those 4 appointed members, 4 out of the 12 Federal Reserve Bank Board members serve in rotation, that being designed merely to coordinate the 12 bodies so that you would not have the banks out of touch with the officials in Washington. I certainly do not believe they should tell them what to buy. If you want me to express an opinion on open-market operations, I will tell you that I do not believe in them at all. I think they are a one-way street.

Senator GLASS. That reminds me that your father did not believe in them for awhile, but his opposition arose out of the fact that he feared that it would put the Federal Reserve banks in direct competition with their member banks which owned the Federal Reserve banks.

Mr. WARBURG. Yes, sir.

Senator GLASS. You have spoken of the reticence of the banking community to express itself on the theories and the possible practical operations under this suggested bill. Why do you think they are reticent?

Mr. WARBURG. I would almost rather not express an opinion about that, Senator. I can only attribute it to a lack of understanding of what this bill proposes, or a lack of courage.

Senator GLASS. Well, may it not be a combination of both?

Mr. WARBURG. It is quite possible.

Senator GLASS. The Governor of the Federal Reserve Board, either before the Banking and Currency Committee of the other body or in addresses made before banking associations, warned the bankers that unless they accepted this bill, the likelihood was that the Government would seize the banks and operate them itself. Do you think that that might have anything to do with the reticence of the banking community to express its judgment upon this bill?

Mr. WARBURG. It is possible. It would not affect my willingness to express my opinion.

Senator GLASS. I know. We have already seen that you are quite ready to express your opinion. But I am talking about the entire banking community.

Adverting to your remarks about the Banking Act of 1933 as it relates to the centralization of control. You will recall that that act, for the first time, made it the duty of every Federal Reserve bank to keep itself intimately apprised of the operations of each member bank in its particular district, particularly with reference to speculative activities, and to report to the Federal Reserve Board whenever there should appear to be an excess of speculative credits, whereupon the Federal Reserve Board by the act is authorized to warn that bank to restrict its speculative activities, under penalty of being suspended or dismissed from the Federal Reserve System. You are aware of that?

Mr. WARBURG. Yes; thoroughly aware of it, and I think it is a good provision.

Senator GLASS. Well, is not that a large degree of central control?

Mr. WARBURG. Yes; that is both central and decentralized control, because the local bank is responsible in the first instance. I think that is desirable.

Senator GLASS. Yes. The Banking Act of 1933, enacted, as I have said, after 18 months of extensive hearings and considerations and consultations with banking experts, also provides a very strict limitation upon the use of Federal Reserve facilities for speculative purposes, in that it exacts an increased discount rate over the usual discount rate for 90-day paper—it used to be 15-day paper. I do not recall whether we made it 90-day paper. They wanted it made that.

Mr. WARBURG. Yes; I think it was made that under the act of 1933.

Senator GLASS. I was opposed to that but, as so frequently happens now, my sound opinions did not count for much. [Laughter.] And we made it 90-day paper. But, in all events, we gave the Federal Reserve Bank and the Federal Reserve Board the right to suspend the bank from the facilities of the System, or to dismiss it entirely from the System, which, after warning, persisted in speculative activities. You recall that?

Mr. WARBURG. Yes, sir. That whole philosophy, as I understand it, is only attempting to protect the banking system against making loans——

Senator GLASS (interposing). Against speculative loans.

Mr. WARBURG. Yes. And this philosophy is based upon the desirability of liquidity of assets, upon the theory that if you can make things liquid, then you can borrow on them.

Senator GLASS. In short, under this bill or proposal, the open-market committee can go on the stock exchange and gamble its eyebrows off, can it not?

Mr. WARBURG. I think it can.

Senator GLASS. It was proposed, when we had under consideration the Banking Act of 1933, that we use the conjunctive, the Federal Reserve bank and the Federal Reserve Board. The concealed purpose of that suggestion was that the Federal Reserve Board could not restrain member banks from speculative activities unless the Federal Reserve bank agreed. That was another and/or case; but I insisted that we insert "or" instead of "and", so that if a Federal Reserve bank, as the New York Bank had done in 1929, refused to put any restraint upon the gambling activities of member banks, the Federal Reserve Board, here at Washington, might do it. That is the law now. Would you not regard that as a large measure of centralization?

Mr. WARBURG. Yes, sir.

Senator GLASS. And, speaking of centralization, the Federal Reserve Act is not a haphazard piece of legislation. We discussed, for months and months, the question of centralization, the majority members of the Banking and Currency Committee of the House, as stated at the outset of the hearings by me, as chairman of the committee, were precluded from even considering a central-bank plan, because the political platform upon which Mr. Wilson was nominated and elected President of the United States definitely and textually declared against a central bank, responsive to the whole history and whole tradition of the Democratic Party, from the time of Andrew Jackson, when it declared in favor of abolishing the United States Bank. And nearly every Democratic platform since then has praised us for doing that. So that, when you speak of centralization, I think that we have determined that question, that this country does not want a central bank, even such central banks as they have in Europe.

Mr. WARBURG. Well, I agree, Senator. Nothing that I said indicates that I would not like to see a central bank established; but I said:

> Much can be said for a stronger centralized control of the Reserve System, but I believe that much can also be said in favor of greater decentralization and greater responsibility on the part of each regional Reserve bank for the soundness of the member banks within its region.

Senator GLASS. Now, then, it has been suggested—and I was surprised and disappointed that you apparently concur in the suggestion—that the existing banking system failed in this depression. Was it the system that failed or was it the administration of the system that failed?

Mr. WARBURG. Well, I do not think that is a question I can answer categorically. I think any system would have failed under the same conditions which prevailed in 1932. The reason——

Senator GLASS (interposing). Well, is it not the fact that both in text and by implication the existing Federal Reserve Act is dead set against speculation by banks, and is it not a fact that the Federal Reserve Bank of New York, for example, to mention but one case, week after week raised its rediscount rate in order, as it thought, to curb the speculative fever that resulted in disaster, and is it not a fact that the central board, week after week, declined to approve that?

Mr. WARBURG. I have been told that, sir; yes.

Senator GLASS. Well, but this bill proposes now to charge the very authority here at Washington with practically exclusive control of a situation of that sort.

Mr. WARBURG. But, again, I heartily disapprove of that.

Senator COUZENS. I understood you to say, Mr. Warburg, that no system could have stood up under the 1932 conditions. How do you account for the fact that they stood up in Canada and Great Britain, if no system could stand up under it?

Mr. WARBURG. I do not think the conditions in Canada were analogous to those here.

Senator COUZENS. What were the conditions that were different in Canada from this country?

Mr. WARBURG. In the first place, let me say that the British and Canadian systems both did stand up better than ours.

Senator COUZENS. Yes.

Mr. WARBURG. But they were not subjected to the same kind of strain ours was.

Senator COUZENS. Was it the system that was under a strain, or the men that operated the system?

Mr. WARBURG. Was the system under strain, or the men that operated the system?

Senator COUZENS. Yes.

Mr. WARBURG. Both. But I say, a greater strain on the system than on the men themselves.

Senator COUZENS. So that you believe that if we had had a better operation of the system, in 1932, that might have stood up?

Mr. WARBURG. Would it have stood up?

Senator COUZENS. Yes; in 1932?

Mr. WARBURG. Your practical operation would have, but it would have to go back farther than 1932.

Senator GLASS. Yes; I think you would have to go back, perhaps, to 1927, when this riot of speculation was inaugurated and encouraged by the use of Federal Reserve bank facilities.

Senator COUZENS. Well, there was something wrong in the banking system itself, if it did not curb that, was there not?

Senator GLASS. No; I did not say that. I say, there was something wrong with the administration of the banking system if they

did not curb it. But we have cured that, I will say to the Senator from Michigan, in my judgment, we have cured that in the 1933 Banking Act, both in that provision which makes it the duty of the Federal Reserve bank to keep itself informed as to the speculative activities of member banks and to notify the Federal Reserve Board here when there is excess, and authorized the Federal Reserve Board to suspend or dismiss a bank which persisted in that; and in that other provision of the law which authorized an increased rate on what I term speculative paper, of at least 1 percent—it is not confined to 1 percent; it may be raised much above 1 percent. I think we cured that defect then.

Senator COUZENS. May I ask Mr. Warburg, if we had the British or Canadian systems during those periods we would have gotten away with less distress?

Mr. WARBURG. I cannot answer that, sir. I think yes, but I would have to see the British system in operation here. But I go further than Senator Glass in that I think much is to be done toward centralization, and I think you will agree that there is merit in a centralization, that our system would not have leaked as badly if we had one system, instead of all the State authorities.

Senator GLASS. I have said that a thousand times. You said you wanted to confine yourself to title II. Right on that point, I understand that this bank bill has been reported from the committee on the other side of the Capitol with the elimination of that provision which requires all insured banks, by 1937, to become members of the Federal Reserve Bank System. Do you think that should be done?

Mr. WARBURG. No, sir; I think the only possible excuse for the whole insurance business is that it produces a unified system.

Senator GLASS. Well, that is what I thought, and that the President thought, and that the then Secretary of the Treasury, Mr. Woodin, thought, and they were brought to agreement with the insurance of bank deposits only upon that theory, that it might result, and in all probability would result, in a unified banking system.

Senator COUZENS. Do you not think, Mr. Warburg, before the State banks should be encouraged to join the Federal Reserve System, that the State banks would be glad to join if they would perform a greater service to them?

Mr. WARBURG. I think that is largely a question of the hen and eggs. I do not think they can perform a greater service until they have a larger membership.

Senator COUZENS. I will ask you to what extent they can perform service so as to encourage banks to become members, banks that are not members at present?

Mr. WARBURG. As a practical banker, I would say that I would not want to run a bank today that was not a member of the Federal Reserve System.

Senator COUZENS. But there are still a lot of good banks that are not in the System and do not signify an intention of joining.

Mr. WARBURG. I do not deny that.

Senator COUZENS. But you have got to have an assurance of service before you join.

Senator GLASS. Let me ask you this question: As a matter of fact, is it not a fact that the existence of the Federal Reserve System, which for 20 years has prevented occurrence of panic in this country, has saved many of those banks that are outside of the Federal Reserve System?

Mr. WARBURG. As I say, they do not realize what they are getting, unless somebody else belongs to the System and there is a System. I think that explains the neutral character of the American Bankers' Association toward the System.

Senator COUZENS. Then we ought to have everybody join the labor unions because everybody outside gets the benefit from those who belong.

Senator GLASS. I would not say so.

Senator COUZENS. I was asking the witness that.

Mr. WARBURG. I will steal the chairman's answer.

Senator GLASS. It was futile for me to answer, because you knew what I thought about it.

Mr. Warburg, it has been suggested, and you remarked upon it in your direct testimony, that the proposed legislation would accelerate recovery. Just how would that occur?

Mr. WARBURG. I am the wrong witness to ask that, Senator. I do not see how it could occur, unless on this theory, which I do not subscribe to, that you can have recovery by the unlimited expenditure of money that is not based on income, and that this would provide a means of getting unlimited amounts of money. That does not produce recovery in my mind, but if you believe in that, that is recovery.

Senator GLASS. You say unlimited amounts of money. You do not mean unlimited amounts of money; you mean unlimited currency.

Mr. WARBURG. Yes, sir.

Senator GLASS. There is a vast deal of difference between the two, is there not?

Mr. WARBURG. Yes; there is.

Senator GLASS. Let me ask you this: Is it not a fact that at no period of this depression have the Federal Reserve banks been in a condition that rendered them incapable, by reason of their reserve facilities, to respond to the requirements of commerce, industry, and agriculture?

Mr. WARBURG. I should say that was correct, sir.

Senator COUZENS. Is there not a difference, however, between being in a position to do that and the willingness to do it?

Mr. WARBURG. Yes; but you do not alter the willingness to do it, but alter the mechanical set-up.

Senator COUZENS. No; you can do that, but we do not want to get away with the record that there is an entire difference of opinion with respect to whether we have adequate facilities in the Federal Reserve to do the job you just referred to, or whether we have the willingness to do it.

Senator GLASS. Let me ask the witness if he can conceive any reason why a Federal Reserve bank, under the permissible provisions of the law, would not desire to respond to the requirements of commerce, industry, and agriculture?

Mr. WARBURG. I cannot conceive of any reasonable reason.

Senator GLASS. What are they for? They are not conducted for profit.

Mr. WARBURG. No.

Senator GLASS. They are there to do this very thing.

Mr. WARBURG. Yes, sir.

Senator GLASS. Now, it may be that there were and are still member banks which are not willing to make loans that, in their judgment, they think are unsound; and other member banks which have conceived the notion that it is more important for them to be liquid than to do business. But ordinarily what is a bank in business for, except to do business?

Mr. WARBURG. I would not know why they stayed in the banking business, sir, unless it is in the way you indicate the answer.

Senator COUZENS. Has it ever come to your attention, Mr. Warburg, that it is within the range of possibility, and maybe of probability, that some of the managers of these Federal Reserve banks have private interests to serve?

Mr. WARBURG. I would say it is within the range of possibility; I would not say it is within the range of probability.

Senator COUZENS. Did you ever hear of a case?

Mr. WARBURG. No.

Senator GLASS. I did.

Senator COUZENS. So did I. And it is perhaps not curious if you find there are some with private interests to serve, who are, therefore, not very anxious to make loans.

Senator GLASS. Well, I would not say some of the members; I have never known but one, and when I stood on the Senate floor and advised that he be kicked out of his board of directors before the lunch hour, again my sound judgment seemed to have no effect.

Senator COUZENS. But you never lacked a sounding board, though, did you, Senator?

Senator GLASS. Sir?

Senator COUZENS. You never lacked a sounding board although you had a sound judgment?

Senator GLASS. I had some sounding board.

Senator COUZENS. Yes.

Senator GLASS. But he was not kicked out, all the same. And he was afterward indicted, and he ought to have been kicked out.

Well, I do not want to be the whole show, if you gentlemen desire to ask Mr. Warburg any questions, you are, of course, at liberty to do it.

Senator COUZENS. I would like to ask Mr. Warburg that question over again in another form, to illustrate in part, what the chairman said with respect to one banker. Outside of that particular incident, does the witness have any knowledge of that happening in any other Federal Reserve bank?

Mr. WARBURG. No, sir; I have no knowledge of that case, except just what I have heard.

Senator COUZENS. You would be surprised, then, I suppose, if it was called to your attention that some of these Federal Reserve banks, that is, the managers, have private interests which they prefer to conserve, rather than making some loans?

Mr. WARBURG. Yes; I would be more than surprised. I would be shocked.

Senator COUZENS. I cannot tell you here, but I will tell you at some other time.

Senator GLASS. Well, if there is any such person on a Federal Reserve Bank Board, the Federal Reserve Board here at Washington, under the law, has full power to dismiss him. Is there anything in this proposed legislation that would correct a situation like that?

Senator COUZENS. No. I am not dealing with that particular question, except that the centralization which we have been discussing might, in part, remedy that.

Senator GLASS. Well, how could it when the Board already has full authority to deal with a case of that sort?

Senator COUZENS. Well, when all of this happened, of course, we did not have the 1933 act, and maybe that has remedied some of these complaints I have in my mind.

Senator GLASS. Yes; if you look into it you will find that that is so.

Senator COUZENS. Yes; I understand that, but you still have difficulty, Mr. Chairman, in proving an implication or a motive. It may be quite demonstrable that a motive and prejudice exist, and yet be difficult to prove it so that the Federal Reserve Board——

Senator GLASS (interposing). I understand that, but the difficulty would be just as great under one system as under another.

Senator COUZENS. That may be so. But in that case that I just referred to, the Federal Reserve Board may have, when provided by law, some authority to determine the validity of an application for a loan, rather than determine the incapacity or unfitness for the board of directors of some member of the board of directors in a Federal Reserve bank.

Senator GLASS. Mr. Warburg, just one more question from me, and I apologize for asking you so many.

Mr. WARBURG. I am enjoying it, Senator.

Senator GLASS. If we are to have a central bank in this country, would you prefer to have a central bank conducted by experienced bankers, or a central bank conducted by a board inexperienced in the technique and philosophy of central banking?

Mr. WARBURG. I prefer the first alternative, sir.

Senator COUZENS. May I ask a question, Mr. Chairman?

Senator GLASS. As many as you please, Senator.

Senator COUZENS. The witness, Mr. Warburg, referred many times to a political control, during the reading of his testimony. What kind of control do you prefer?

Mr. WARBURG. To political control?

Senator COUZENS. You disposed of political control in your testimony. What kind of control do you prefer, if you do not want political control?

Mr. WARBURG. In the first place, I do not believe there is any such thing as conscious control of credit and monetary machinery. That is what this bill seeks. I do not believe it is possible to find any person who is omniscient and omnipresent enough to do that. But if you are going to set up a group of men and ask them to do what I think is an impossible job, then you want to try to get the best men you can get hold of and be sure they are divested of private interests and that they do the best job possible. I do not think it can be done at all in the sense they are trying to do it here.

Senator COUZENS. No; but I go back to the question—not with respect to the particular bill in front of us—but you talked about

political control, which is, obviously, an admission there must be some control. What kind of control would you have?

Mr. WARBURG. I do not admit that that is an admission of control; not the kind you mean.

Senator COUZENS. Did you ever know of anything in your life that did not have some kind of control?

Mr. WARBURG. The kind of control I meant, is a large number of persons entering into transactions with the hope of profit. That gives a free economic order. Now the minute you inject into that the reshaping of credit and monetary machinery because you control factors, or of private interests, you increase the disparity in other factors. That is why I take issue with the necessity for control.

Senator COUZENS. Mr. Warburg, do you want this committee to understand, and the public, that those influences have happened without control?

Mr. WARBURG. Which influences, Senator?

Senator COUZENS. Why, the influences that you have been complaining about and that you want to get out of political control? There is certainly something in the atmosphere that inspires you to continue to repeat that you do not want political control. You must, of course, have had enough experience to know that there is always control in everything, and I would like to know if you do not admit there has been some control somewhere.

Mr. WARBURG. Yes; there has been control somewhere.

Senator COUZENS. All right. What has it been and where has it been?

Mr. WARBURG. In the Federal Reserve System has it been?

Senator COUZENS. No; anywhere. You are talking of political control. I suppose you mean political control of credits, and monetary control, and that sort of thing. And you have repeatedly said that you do not want political control. Now, you know that there is always control somewhere. I would like to know where it is, and where you would approve putting it. It has been hazy, I admit; it has been, perhaps, difficult to allocate, but it has existed.

Mr. WARBURG. I can only answer that by going rather deeply into the whole philosophy. I believe that it is the function of political government, in the field of economics, to do just about one thing, and that is to insure free and fair competition in order that there may be the greatest amount of goods produced at the lowest possible price. Now, the minute that you go beyond that, it is like a referee in a game when you have the referee running with the ball when one side is losing; and you get into a control that I do not believe in. I say no one should control. Now, if you want me to answer why I do not believe in political control, I can answer that.

Senator COUZENS. If you do not want political control, what control do you want?

Mr. WARBURG. I think you want to get as close as possible to an impartial, nonpolitical body that is not influenced by the desire for reelection, as you can.

Senator GLASS. Well, is there not control in the law itself? In other words, the Federal Reserve Act, based upon 150 years of banking experience, provides for the automatic issuance of credits and currency. For what purpose? To respond to the requirements

of commerce, industry, and agriculture. And it gives to the Federal Reserve Board freedom of action as to its definitions of eligible paper which relates itself to the business of the country, and prohibits the Federal Reserve Board from embracing in that definition speculative securities, only United States bonds being accepted, and United States bonds were accepted only because at the time of the adoption of the act there were less than $200,000,000 of United States bonds available for open-market operations. The law itself provides that when these business transactions shall have been terminated upon maturity the notes and credits would automatically terminate. The law itself provides, upon 150 years of banking experience, that there should be a 40-percent reserve upon the notes and a 35-percent reserve upon the credits. The Federal Reserve Board was set up as a controlling, supervisory authority to see that the law was carried out. Now, of course, there may be maladministration in any one of the Federal Reserve banks, as there seems to have been in one that I know of. There may be mistaken administration in the Federal Reserve Board; but as long as you have got human beings to do these things that is apt to occur.

Mr. WARBURG. That suggests, sir——

Senator GLASS (interposing). Let me interject there: As to the political aspect of the thing, the proponents of the original act conceived the idea that there should be a measure of political influence in the supervising board here in Washington, and for that reason they made the Secretary of the Treasury and the Comptroller of the Currency ex-officio members of the Board, with a view that in the event the Board should ever pursue a policy that was manifestly damaging to the public interests, and there should be a change of administration, there would certainly be a change in at least two members of the Board, then composed of only seven members, and that the President of the United States, elected by the people, could, for cause stated in writing, dismiss one or more members of the Board and change its policy. So that there is that measure of political control in the Board. It has been suggested, Mr. Warburg, that the Secretary of the Treasury ought not to be a member of the Board, and the Senate, 3 years ago, by a vote of 62 to 14, or 62 to 19, or 62 to 9—I do not recall which—Senator Couzens has a much more accurate memory than I and may remember——

Senator COUZENS (interposing). I do not remember that.

Senator GLASS. Sixty-two to a very small objecting vote, passed an act that removed the Secretary of the Treasury from the Board. I have always been in favor of that, and for the reason that when I was Secretary of the Treasury—I would not say in an offensive way that I dominated the Board, but I, at least, had considerable influence with the action of the Board, and I have suspected—being like Senator Couzens, naturally of a suspicious nature—I have suspected that frequently since the Secretary of the Treasury has had too much influence upon the Board, and I do not think he ought to be there.

Senator COUZENS. I am always in favor of influence, but I want to use it, that is all.

Senator GLASS. How is that?

Senator COUZENS. I am always in favor of influence, but I want to be the one that uses it, that is all.

Senator GLASS. So do I. But I do not want anybody to use it in a wrong direction.

Mr. Warburg, we are very much obliged to you.

Senator BYRNES. May I ask a question, Mr. Chairman?

Senator GLASS. Yes; as many as you want.

Senator BYRNES. What is the political control to which you refer? What have you in mind when you speak of "political control"?

Mr. WARBURG. I think it is the avowed purpose of this bill to bring the operation of the Federal Reserve Board, and through that the system, under the control of the administration.

Senator BYRNES. Of course, the bill has not been explained in full to the committee; in fact, you are the first witness. May I ask you to point out the language that you refer to, or the section which you think brings the administration of the system under political control?

Mr. WARBURG. Well, without going into the section, I can give you the items.

Senator BYRNES. All right.

Mr. WARBURG. That the Governor is appointed subject to the authority of the President.

Senator BYRNES. What is the existing law?

Mr. WARBURG. Well, I have got that right here.

Senator BYRNES. The present law, according to the House report, states that of the six persons, one shall be designated by the President as Governor.

Mr. WARBURG. Yes, sir.

Senator BYRNES. Therefore, under the existing law, the President designates the Governor.

Mr. WARBURG. Yes, sir.

Senator BYRNES. What is the change?

Mr. WARBURG. As I read the proposal, under the existing law he could not remove the Governor, except for cause, and then——

Senator BYRNES (interposing). The existing law says: "Of the 6 persons thus appointed, one shall be designated by the President as Governor", and so forth. Would you not, in construing that language, say that if the President designated Mr. Brown, instead of Mr. Jones, Mr. Brown would be Governor?

Mr. WARBURG. Yes, sir.

Senator BYRNES. I would think so. If that is the language of the House bill which you have reference to as giving political control, do you not then agree that there is no change from the existing law?

Mr. WARBURG. I cannot, Senator, go into a legal interpretation of the bill, because I am not a lawyer.

Senator BYRNES. But, without being a lawyer, you would agree, I think, that the President has the power not only to remove the Governor, but to remove any member of the Board.

Mr. WARBURG. I will say more than that. I will say that the present condition is very slightly changed by the proposal.

Senator BYRNES. Yes; but this——

Mr. WARBURG (interposing). But the rest of it shows me so much that there is in the present situation almost a usurpation of power; that is, a domination of something that is supposed to be independent. Now, what this proposal is, as I understand it, is to legalize that domination.

Senator BYRNES. To legalize it? Do you mean something that is done now that is not legal?

Mr. WARBURG. Not legal, but that is not the intention, as I understand the intention of the Federal Reserve Act.

Senator GLASS. The existing law has not been completely reported. The President may remove any member of the Board, for cause, in writing.

Senator BYRNES. May I ask these questions? I have not interrupted you when you were making your statement.

When you say "legalized", you do not mean to say that something is being done that is not legal?

Mr. WARBURG. I would not know, because I am not a lawyer, but it is certainly not according to my understanding of what the Federal Reserve Act intended to create.

Senator BYRNES. You were talking of the intent. As to the right to remove a man, you would not say that this right to remove an official is new, because you know that that is the law ever since the case of Myers, in Oregon, that the President has a right to remove a Government official. Do you not understand that?

Mr. WARBURG. I will take your word for that.

Senator BYRNES. Well, if you are not familiar with it I will not pursue it.

Now, as to the open-market operations and, again, because I am not as familiar with the detailed provisions of title II as I would like to be, not having had the opportunity to study it, I ask you what is the difference between the House bill as to the powers in the House bill governing open-market operations, and the provisions of the proposed bill here as to open-market operations?

Senator GLASS. Do you mean, what is the difference between the existing law and the proposed bill?

Senator BYRNES. The existing law and the proposed bill.

Mr. WARBURG. Under the existing law, the chairman outlined that a while ago, that the 12 Federal Reserve banks, each speak their own piece as to how much of Government bonds they will take. Under the proposal they can be told what to buy by the open-market committee.

Senator BYRNES. And not by the Federal Reserve Board?

Senator GLASS. They cannot only be told what to buy, but at what price to buy.

Senator BYRNES. Do you agree to that statement?

Mr. WARBURG. Yes, sir.

Senator BYRNES. That the open-market committee—I have been glancing at the House report while you have been testifying, and I am wondering if that is a correct statement of it, and that the Board has no power in the premises. I notice in subdivision (b) [reading]:

> The committee shall consult and advise with, and make recommendations to, the Federal Reserve Board from time to time with regard to the open-market policy of the Federal Reserve System. The committee shall also aid in the execution of open-market policies adopted from time to time by the Federal Reserve Board and shall perform such other duties relating thereto as the Federal Reserve Board may prescribe.

What I want to know is whether the policy is fixed by the Board or is the policy of the committee.

Mr. WARBURG. Under the existing law?

Senator BYRNES. No; under the House bill.

Mr. WARBURG. That is, under the proposal?

Senator BYRNES. Yes.

Mr. WARBURG. I would say that the whole open-market policy was determined by the Federal Reserve Board, under that, and with such consultation.

Senator BYRNES. You mean, the Federal Reserve Board?

Mr. WARBURG. Yes, sir.

Senator BYRNES. Not by the Governor, but by the Board?

Mr. WARBURG. I think that would depend upon the personality.

Senator BYRNES. Of course, on the personality, always. It might be someone other than the Governor who might be the dominating influence on the Board.

Mr. WARBURG. Yes, sir.

Senator BYRNES. That is another question.

I think I heard made a statement by someone to the effect that if the bankers did not accept this bill, that their banks might be seized and, therefore, the bankers did not want to express an opinion.

Mr. WARBURG. I did not make that statement. That was a question.

Senator GLASS. I made the statement; but he did not make the statement. Do you want to question me about it?

Senator BYRNES. No. I wanted to ask the witness who made the statement, and when and where, just for my information. The witness did not make it?

Senator GLASS. No; the witness did not make it.

Let me ask you a concluding question, Mr. Warburg: If there is no difference between the existing law and the proposed bill, why make any alterations?

Mr. WARBURG. I did not know whether the witness was allowed to ask a question, but I wanted to ask that question myself.

Senator GLASS. Thank you, Mr. Warburg, very much for your statement.

Mr. WARBURG. Thank you, sir.

Senator GLASS. The meeting is recessed until 10:30 tomorrow morning.

(Whereupon, at 12:10 p. m., a recess was taken until tomorrow, Thursday, Apr. 25, 1935, at 10:30 a. m.)

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BANKING ACT OF 1935

THURSDAY, APRIL 25, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met pursuant to adjournment at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, McAdoo, Byrnes, Bankhead, Townsend, and Couzens.

Senator GLASS. The committee will come to order.

Governor Winship, I understand you want briefly to address the committee.

Governor WINSHIP. Yes, Mr. Chairman. Thank you. May I sit right here?

Senator GLASS. Sit right there, and make such statement as you desire.

[Uncorrected copy of]

STATEMENT OF HON. BLANTON WINSHIP, GOVERNOR OF PUERTO RICO

Governor WINSHIP. I merely wanted to ask the committee to be good enough to recommend that the benefits of this act be extended to Puerto Rico, Mr. Chairman. I think this would be very helpful to Puerto Rico, and I think it might have been done before if it had been brought as fully to the attention of the committee as it is now.

Senator GLASS. You mean you want to be brought under the insurance of deposits provision of the bill?

Governor WINSHIP. Yes, sir. This matter has been discussed with Judge Birdzell; and Judge Rigby, who is our counsel for Puerto Rico, is very conversant with the situation.

I think this is stated as definitely as I might in a radiogram I have just had from Puerto Rico. It is from the Acting Governor, who is also very familiar with the situation. In answer to a telegram I sent him I have received this [reading]:

[Radiogram received Apr. 24, 1935]

DIVISION OF TERRITORIES AND ISLAND POSSESSIONS,
April 23 (No. 161).

Your No. 123. For Governor Winship from Domenech: "Nineteen hundred and thirty-three Banking Act provided no control of interest rates on loans, nor was such control included original draft of pending bank act, and as extension Puerto Rico legislation for insurance bank deposits would not affect insular statute fixing local interest rates, believe no limitation of interest bank loans

or regulation of deposits is involved. Insurance of deposits should be extended to banks organized under laws of the United States, State, Territory, or insular possessions, but not to Canadian or any other foreign banks."

There are two Canadian banks there. [Continuing reading:]

Believe you should ask extension proposed insurance legislation to Puerto Rico despite New York banks opposition, two of which banks already enjoy insurance privilege. Failure to do so would mean great injustice our local banks.

HORTON, *Acting Governor.*

Senator GLASS. Why the opposition on the part of the New York banks?

Governor WINSHIP. The only opposition that was urged at that time, as I understand, was on account of the rate of interest; and that is not involved under the present extension. So, as I see it, there is no objection on the part of the New York banks now.

Senator TOWNSEND. What is the rate of interest?

Governor WINSHIP. The rates of interest were different. They thought they would have to charge a higher rate of interest.

Senator BANKHEAD. What is the rate of interest now?

Senator MCADOO. The legal rate?

Governor WINSHIP. Nine percent, and under some conditions 8 percent—under certain conditions.

Senator TOWNSEND. They do not charge that now, do they?

Governor WINSHIP. Oh, yes.

Senator MCADOO. They charge all they can get.

Governor WINSHIP. Puerto Rico is very peculiar in that respect——

Senator GLASS (interposing). Well, not in this respect, that all banks charge all they can get.

Governor WINSHIP. Yes; I think they do. But Puerto Rico was in a situation where 9 percent was nothing compared to what they had charged, and the fact that we are now getting interest rates at a reasonable rate is going to help the Puerto Ricans permanently.

Senator MCADOO. Would it be wise to establish a lower rate than 9 percent?

Governor WINSHIP. It is questionable whether you can get back money if that was done. Of course, the Government has come in there through its different agencies and is letting us have money. The farm credit bank and other agencies have come in there and are letting us have money. It is surprising how much good that is doing. They are perfectly good loans that could be made, but they had grown up under that old system of people putting their money into mortgages, rather than other loans, if they could get them. And I think the rate now, and the money that is in there to be had, is going to give us more money and we will also have more local capital.

Senator MCADOO. If the legal rate were, say, 6 percent, do you not think that the bankers under those circumstances would be willing to make loans at 6 percent rather than not make them?

Governor WINSHIP. Well, I hope so. We are considering that at the present time.

Senator MCADOO. Nine percent seems to me to be a high rate.

Governor WINSHIP. It is 8 percent under certain circumstances. Political divisions, like St. George's, borrow money, under certain circumstances, and lend it to their people, and get a little spread.

Senator GLASS. Under existing laws national banks are permitted to charge that rate of interest which is authorized by the statutes of the different States. Where a State has no statute controlling the interest rates, the banks may charge in excess of 7 percent.

Governor WINSHIP. Well, that might be advisable, sir, to do that. We would have to take that into consideration.

Senator GLASS. That has been so for years.

Governor WINSHIP. Yes, sir.

Senator MCADOO. If Puerto Rico has established, through the proper authority, the rate of 9 percent, the national banks would be allowed to charge that rate.

Governor WINSHIP. Yes; that is the situation.

Senator BANKHEAD. How many banks do you have, and how many systems?

Governor WINSHIP. We have the two Canadian banks, and the National City Bank, and the Chase National Bank, and two local banks.

Senator BANKHEAD. Are the local banks organized under the laws of Puerto Rico?

Governor WINSHIP. The local laws of Puerto Rico.

Senator BANKHEAD. Do you have national banks there under our United States banking laws?

Governor WINSHIP. The land bank is down there.

Senator BANKHEAD. Yes; I know. But I mean commercial banks.

Governor WINSHIP. The National City Bank is there, and the Chase National Bank.

Senator MCADOO. No local national bank?

Governor WINSHIP. No, sir.

Senator BANKHEAD. Do they have an office there?

Governor WINSHIP. Yes; a branch office.

Senator BANKHEAD. A branch bank there?

Governor WINSHIP. Yes, sir.

Senator GLASS. Governor, we shall be very glad to consider the matter when we come to write the bill, sir.

Governor WINSHIP. Thank you very much. I think it would be very much to the interests of Puerto Rico to have this insurance of deposits extended there. I think it would be very helpful to do it.

There are two letters from local banks that I think I will put into the record, to give you what they have to say, with your permission.

Senator GLASS. You have liberty to do that.

Governor WINSHIP. In fairness to the bankers I ask that the letters I have received from the Banco de Ponce be inserted in the record. I am handing you copies for your purpose.

Senator GLASS. Very well.

(The letters submitted by Governor Winship are printed in the record in full, as follows:)

BANCO DE PONCE,
Ponce, P. R., April 22, 1935.

GOV. BLANTON WINSHIP,
Care of Interior Department, Washington, D. C.

DEAR GOVERNOR WINSHIP: On the occasion when you sailed, local newspapers informed that among other matters which took you to Washington it was your intention to use your efforts to have Puerto Rico included in the new banking act which is at present under the consideration of Congress.

We wish to explain that when advertising of Government insurance was made compulsory to insured banks in the Bank Act of 1934, the question of the advisability of having the Federal Deposit Insurance Act made applicable to Puerto Rico was discussed by the Puerto Rico Bankers Association, and as we were apprehensive of the results which might develop through the advertising by insured banks of their special privilege, the Insular Banking Association went on record as desiring that the law should be made extensive to the island.

However, according to the terms of the new bank act the insurance of deposits is specficially omitted for branches of insured banks doing business in the island, so that under the circumstances it is the general feeling of the majority of the members of the association that the obtention of the Government insurance is no longer important to the native banks. The national banks presently operating branches in the island (the Chase National Bank and the National City Bank) would also prefer that their deposits should not be insured in order to avoid the expense involved.

With respect to native banks, the main difficulty in having the legislation made applicable to the island is the fact that we would be compelled to become members of the Federal Reserve System on or before July 1937. On the occasion when both Credito y Ahorro Ponceno and Banco de Ponce negotiated capital notes with the Reconstruction Finance Corporation a year ago, the Reconstruction Finance Corporation made it a condition that both banks should become members of the Federal Reserve System on the preliminary approval of the transaction, and in discussing matters with the majority of the members of the Federal Reserve Board we were advised that membership would be impracticable, inasmuch as native banks would not obtain any practical benefits because of the nature of their business, and the Federal Reserve Board at the time requested the Reconstruction Finance Corporation to withdraw the condition of membership prior to granting the loan, which condition was removed and substituted by one that whenever the Reconstruction Finance Corporation should so request it, both banks, Credito y Ahorro Ponceno and Banco de Ponce, would be compelled to make application for membership.

Unless the attitude of the Federal Reserve Board should have changed considerably, and it could be shown that through membership local banks could obtain adequate advantages, there is really no reason why we should request that the present bank act be made applicable to the island, as we shall then be forced to apply for membership in the Federal Reserve System, irrespective of the advantages, if any, which we would obtain thereby.

We are enclosing herewith copy of letter written by Mr. P. J. Rosaly, manager of Banco de Ponce, to the American Banking Association at Washington, D. C., and copy of their reply, in which it is confirmed that the deposits in branches in Puerto Rico of insured banks in the continental United States, will not be covered by Government insurance, so that there is no reason why we should ask for the law to be made applicable to the island until and unless the Federal Reserve Board should make membership attractive to native banks.

Under the circumstances we have thought it advisable to inform you of present attitude of the majority of native banks in respect to the proposed bank act now under consideration in Congress.

We beg to remain,

Yours very truly,

BANCO DE PONCE,
By P. J. ROSALY, *Manager*.
CREDITO Y AHORRO PONCENO,
By SANZ, *Manager*.

BANCO DE PONCE,
Ponce, P. R., April 3, 1935.

AMERICAN BANKERS ASSOCIATION,
Washington, D. C.

DEAR SIRS: We are in receipt of your letter of the 22d ultimo in reference to efforts of the association in respect to proposed bank legislation.

We should like to obtain your opinion with respect to whether deposits with branches of an insured bank in Puerto Rico are to be considered insurable. According to the definition of the term "deposit", page 4, lines 9 to 25, of H. R. 5347, it would appear that a deposit lodged with a branch of

a national bank doing business in Puerto Rico could not be included as an insured deposit.

As the proposed legislation does not include Puerto Rico, it would be of interest to local or native banks whether deposits lodged with their competitors' branches of national banks, are subject to insurance.

As insured banks must necessarily apply for membership in the Federal Reserve System on or before July 1937 and as the benefits to be derived from native banks from membership in the Federal Reserve System are questionable, local banks have not come to a decision as to whether it would be convenient to have the law include Puerto Rico or leave the proposed legislation as presented, which specifically excludes the island, and for the purpose of further consideration of the matter, we would like to have your opinion of the point raised herein.

Will you be so kind as to render us your opinion at your very earliest opportunity and by air mail?

We thank you and beg to remain,

Yours very truly,

P. J. ROSALY, *Manager.*

Governor WINSHIP. The representative of the Department of the Interior is here and wanted to speak just a moment for the Virgin Islands with reference to this same extension, Mr. Chairman.

Senator GLASS. Very well. We will hear him.

STATEMENT OF F. B. WIENER, ASSISTANT SOLICITOR OF THE DEPARTMENT OF THE INTERIOR

Mr. WIENER. I do not want to take more than a moment of your time, Mr. Chairman. The Department of the Interior would like to see the insurance of deposits extended also to the Virgin Islands. In the Virgin Islands at the present time there is a national bank, which has been organized partly through local subscriptions and partly through subscriptions from the Reconstruction Finance Corporation. The only other bank there is a savings bank. The Department would like to see the insurance of deposits extended so that they can participate. The Department is agreeable to that. And the Reconstruction Finance Corporation is agreeable to it, and I understand from Judge Birdzell that the Federal Deposit Insurance Corporation does not object.

Thank you, Mr. Chairman.

Senator GLASS. Thank you.

Now, Mr. Comptroller, you may resume.

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY—Resumed

Mr. O'CONNOR. Senator, at the conclusion of the last hearing I was asked about certain data bearing on loans of executive officers. Could I first give the figures Senator Bulkley requested?

Senator GLASS. Yes, sir.

Mr. O'CONNOR. The Banking Act of 1933 prevented further loans to executive officers of member banks, but also gave the officers who had loans in the banks 2 years in which to liquidate their loans.

On June 30, 1933, in 4,902 national banks, with total assets of $20,860,491,000, those banks had a capital and surplus of $2,456,-245,000 and they showed liability of executive officers as follows:

Amount of direct borrowings by officers, of $93,743,000.

The ratio of direct borrowings to total assets of all active banks was 0.45 percent.

The ratio of direct borrowings to capital and surplus of all active banks was 3.82 percent.

The amount of indirect borrowings by officers, $43,487,000.

The ratio of indirect borrowings to total assets of all active banks was less than a quarter of 1 percent, or 0.21 percent.

And the ratio of indirect borrowings to capital and surplus of all active banks was 1.77 percent.

Senator GLASS. What do you mean by indirect borrowings; endorsements?

Mr. O'CONNOR. Yes, Senator.

Now, the particular point that the Senator was interested in was what showing had been made with reference to carrying out the direction of Congress in reducing this indebtedness. I secured that data, Senator, as I felt the committee would probably ask for it, as we have proposed in the bill an extension of time for those officers to liquidate this indebtedness.

Senator COUZENS. Is your testimony all in relation to title III, Mr. Comptroller?

Mr. O'CONNOR. Well, the other day some questions were asked me on title I, and some on title III; and just as I was leaving, this question developed on title III. But the only ones I have testified about were title I and title III.

Senator GLASS. You had nothing to do with the drafting of title II?

Mr. O'CONNOR. Nothing whatever, Senator.

Now, on December 31, 1934—the figures heretofore given were all with reference to June 30, 1933, which was the nearest date we could get after the passage of your act of 1933. Now I am taking figures as of December 31, 1934, the last available call report.

This showed the direct obligations of executive officers to banks of $60,471,000; or a decrease of $33,272,000 in direct obligations.

And on December 31, 1934, the indirect liability of officers to banks was $30,281,000. That was a decrease of $13,206,000.

Unless there is some question, Senator, that is all I had on that particular point.

Senator GLASS. Well, you still adhere to your recommendation that they be given further time in which to discharge their indebtedness?

Mr. O'CONNOR. Yes; I do, Senator, in view of that showing.

Senator MCADOO. You requested further time?

Mr. O'CONNOR. The bill, Senator McAdoo, extends the time to 1938. It was extended for 2 years, which expires on the 13th of June, of this year, and the bill, if adopted in its present language, would extend that to 1938.

Senator MCADOO. For 3 years?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. Mr. Comptroller, tell the committee the policy followed in reopening banks after the banking holiday of 1933.

In this connection, one of the Washington newspapers reported the chairman of this subcommittee as having severely hit Secretary Morgenthau for licensing involvent banks. As a matter of fact, Mr.

Morgenthau was not Secretary of the Treasury when those banks were licensed, and I did not refer to Mr. Morgenthau at all. I referred to an admission which was made personally to me by the then Secretary of the Treasury, Mr. Woodin, and not to Mr. Morgenthau, the present Secretary of the Treasury.

Senator COUZENS. You were not Comptroller when those banks were opened up, were you, Mr. O'Connor?

Mr. O'CONNOR. Up to March 16, 4,522 national banks were licensed, leaving 1,417 banks under jurisdiction of Comptroller unlicensed. I took office May 11, 1933.

Senator GLASS. Under the law, who is authorized to close banks?

Mr. O'CONNOR. There is just a little question on that, Senator. Until the Emergency Banking Act, the matter was entirely in the hands of the Comptroller of the Currency; when he found a bank to be insolvent, then it was closed up.

Senator GLASS. Yes.

Mr. O'CONNOR. The question now is left with some little doubt, inasmuch as the law provides that the Secretary may license banks in addition to their being chartered by the Comptroller. And the Secretary may withdraw a license from a bank, and that would operate to close it.

Senator GLASS. What Federal official was ever authorized or could be authorized by any Federal statute to close State banks?

Mr. O'CONNOR. It is impossible, Senator. I do not know that we have any jurisdiction to close State banks at all.

Senator GLASS. Now you may proceed with your statement without further troublesome questions.

Mr. O'CONNOR. I am very glad to answer them, Senator.

At the date of the banking holiday, March 6, 1933, there were 5,939 national banks. On March 13 the first banks were licensed and all were licensed by March 16.

Senator TOWNSEND. All of that total number were licensed?

Mr. O'CONNOR. No; 4,522 of the number that were opened at that time. And then we did not relicense 1,417.

In other words, only 10 days elapsed between the closing of the banks and the reopening, during which time it was necessary to analyze and determine the condition of each bank on the available information.

Now, the information on which the Comptroller's office acted was the last report of the examination of the national banks, which was analyzed by the various chief examiners and their staffs in the field and considered, together with any other information which was available with respect to such banks. A like analysis was made in the office by the Comptroller of the Currency and, based upon such reports, all losses, market value depreciation, and doubtful assets were deducted from capital structure, and if the result of such deduction showed the bank to be solvent and otherwise in good condition, including adequate liquidity or borrowing power, the bank was recommended to the Secretary of the Treasury for a license. Each Federal Reserve bank made a similar analysis and submitted its recommendation on the national banks direct to the Secretary. In most instances the recommendations of the Federal Reserve banks and those of this office coincided.

If there was a variance in any case, that case was made a matter of special study and was discussed over long distance by members of the staff of the Comptroller's Office with the chief examiners in the field and with the Federal Reserve banks, in order to arrive at the proper decision. No bank that was considered unsound was recommended by the Comptroller's Office to the Secretary for licensing.

It was only natural that under this tremendous pressure and the short time available and with many examination reports not current, some errors occurred, but subsequent examinations have shown that they were few in number. In this connection it is well to call attention to the fact that in more than 2 years which have elapsed since the banking holiday only 11 national banks have suspended business. Five of these banks suspended business on account of defalcation on account of officers or employees. Seven of the banks were subsequently reorganized and three of that number paid creditors 100 cents on the dollar. One paid 80 percent and will pay a total of 90 percent; 1 paid 62½ percent and will pay a total of 77½ percent; 1 paid 60 percent and will pay a total of 70 percent; 1 paid 65 percent; 1 paid 50 percent and will pay a total of 70 percent; 1 paid 75 percent and will pay a total of 83 percent; and 2 were taken care of through the Federal deposit insurance.

I have a list and digest of each one of those 11 banks.

Senator TOWNSEND. Mr. Comptroller, you say there were 11 of those banks, but only 2 were members of the Federal Deposit Insurance?

Mr. O'CONNOR. Yes, sir.

Senator TOWNSEND. Why were they not members?

Mr. O'CONNOR. They closed before the law became effective. You see, the law did not become effective until the first of the year 1934. There was no insurance prior to that time.

In line with the policy of the office to require banks to maintain a proper ratio of sound capital to deposits, analyses were made of the condition of the licensed banks following their first examination after the holiday, by which all losses, bond depreciation, and doubtful assets were deducted from capital structure to arrive at the amount of sound capital.

Senator BYRNES. Mr. Chairman, may I ask a question at this point?

Senator GLASS. Just as many as you please.

Senator BYRNES. Mr. O'Connor, how many national banks have issued preferred stock, and for what amounts? Have you a statement showing that?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. I suggest to the Senator that we could get full information on that; but you may go ahead, Senator.

Mr. O'CONNOR. Up to the present date 2,170 national-banking associations have sold preferred stock in the total sum of $531,075,800. In addition there are pending in the office today 150 cases involving approximately $23,000,000.

Senator MCADOO. What is the total number of active national banks now, as of the latest available date?

Mr. O'CONNOR. I can give you that in a second, Senator.

Senator GLASS. You can supply it.

Mr. O'CONNOR. I have it here, Senator, and would be glad to give it now. The number is 5,467.

Senator BYRNES. May I ask one further question on that preferred-stock feature?

Mr. O'CONNOR. Yes, sir.

Senator BYRNES. Have you any record showing how many national banks have retired their preferred stock, and the amount of stock which was retired?

Mr. O'CONNOR. Yes, sir. One hundred and ninety-three banks have retired their stock, in the sum of $11,496,982.

I might say, in passing, that not all these national banks really needed preferred stock. The preferred stock was issued for two purposes: First, to strengthen the capital structure of the bank; and, second, in many instances, where the banks wanted to carry slow paper and not crowd the debtors, they took in additional cash to enable them to do that. And, without giving the names, I happen to know of some national banks that did not need it for either purpose but did it because of the criticism that if the bank took additional stock it indicated a precarious condition; and they did it, they took the preferred stock, to help the weaker banks. That actually happened in some cases.

Senator GLASS. In some cases?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. But for general reasons, why did they issue preferred stock?

Mr. O'CONNOR. First, to strengthen the capital structure; and, secondly, while they had the opportunity to force the debtors to the wall, they took the preferred stock which was to enable them to carry those debtors. Those are the two reasons, Senator.

Senator MCADOO. The paper was simply slow paper?

Mr. O'CONNOR. Yes, sir.

Senator MCADOO. But not necessarily bad paper?

Mr. O'CONNOR. Sound, but slow.

Senator GLASS. Well, what is going to happen to the banks that were in a precarious condition by reason of mismanagement that took out preferred stock to try to recover their position? What is going to happen to them when they have to pay it?

Mr. O'CONNOR. Well, if the Government should call upon them, Senator, for repayment of the amounts of preferred stock, and the bank not be in shape to do it, there is only one thing that can happen; it has got to fold up.

Senator BULKLEY. Is there any agreement by which the Government could call on them for payment?

Mr. O'CONNOR. The Government requires from them that the bank set up a reserve out of their earnings over a period of 20 years.

Senator BULKLEY. But if no earnings, no reserve.

Mr. O'CONNOR. No earnings, no reserve.

Senator BULKLEY. Then the bank could not be forced at all?

Mr. O'CONNOR. I do not see how preferred stock could have a debt status.

Senator COUZENS. Were all these issuances uniform, of the preferred stock in all the banks? When they did subscribe for it, were the conditions uniform in all?

Mr. O'CONNOR. Senator, I am not in the best position to testify to that, that being an R. F. C. matter; but I am inclined to think there

were some variations under some circumstances. For instance, this was a vital difference: When the R. F. C. found local interests were able to take some preferred stock, the R. F. C. took A stock, and the local interests took B stock.

Senator McAdoo. What Senator Couzens has in mind, I imagine, is whether the character of certificates was uniform in all cases.

Mr. O'Connor. It is my impression they were, Senator.

Senator McAdoo. They were necessarily so, were they not?

Senator Couzens. Did you ever pass on them before they issued them?

Mr. O'Connor. Yes; we passed on them.

Senator Couzens. Then you would know, would you not, whether they were uniform?

Mr. O'Connor. I do not want to pass on that without investigation, because there might be some differences in terms.

Senator McAdoo. But not in the form of the stock and the obligation incurred?

Mr. O'Connor. No. I would say, "Yes they were uniform", Senator McAdoo, but the difference between the bank and the R. F. C., the R. F. C. might ask the bank for a management clause.

Senator McAdoo. That would not vary the stock?

Mr. O'Connor. No; there was uniformity in the certificate.

Senator Couzens. I was talking about both.

Senator McAdoo. Were you?

Senator Couzens. Yes.

Senator Glass. As a matter of fact, you know the R. F. C. did demand the right of management of some banks?

Mr. O'Connor. That is correct, Senator.

Senator Glass. On the other hand, the R. F. C. persuaded some banks—I do not know how many; perhaps you do not know how many—to take this preferred stock that really did not want to take preferred stock, and there was no necessity for them to take preferred stock; is that not true?

Mr. O'Connor. That is true.

Senator McAdoo. But the preference that the R. F. C. acquired by the sale of these stocks was precisely the same. I am talking about the legal preference.

Mr. O'Connor. They always had the legal preference.

Senator McAdoo. Collateral management was not involved?

Mr. O'Connor. No.

Senator McAdoo. That was outside?

Mr. O'Connor. Yes.

Senator McAdoo. But the preference the Government got was the same in each instance?

Mr. O'Connor. Yes; that is true. The Government was in there first.

Senator Byrnes. If there was any difference between the character of certificate insisted upon, I think we ought to know it. What Senator McAdoo has asked is what I wanted to know: Whether the certificates of stock, A or B, issued by a bank differed by different banks or whether they were uniform?

Mr. O'Connor. Senator, we will let the record stand that they were all uniform, because that is my recollection at the present time. I will correct it if that is not correct.

Senator TOWNSEND. Were there variations in the local situations, Mr. Comptroller, of the different banks?

Mr. O'CONNOR. No; I think not.

Senator BULKLEY. I understand you are talking about national banks all the time?

Mr. O'CONNOR. That is all.

I think it would interest the committee to know how much of this preferred stock was purchased locally, because that has been my desire, and that of Mr. Jones—I should say of the Comptroller's office. We have all been desirous of having the local people purchased as much as possible.

Senator GLASS. You are speaking of the preferred stock of national banks?

Mr. O'CONNOR. Yes, sir.

Senator MCADOO. And not State banks?

Mr. O'CONNOR. Not of State banks.

That sum was $359,365,445.

Senator MCADOO. Out of a total of a little more than 459 million dollars?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. Mr. Comptroller, unless members of the committee want to ask you more questions on that particular point, I want to direct your attention to receiverships. There has been some discussion on the matter of receiverships, as to what bureau of the Government should handle receiverships. I believe the Federal Deposit Insurance Corporation wants to do it, and I believe the Comptroller's Office under the law was required to do it. What, if anything, do you have to say on that subject?

Mr. O'CONNOR. When the Federal Deposit Insurance Law was first drafted it was the plain intent of the law of Congress to insure deposits greatly in excess of $5,000, up to $10,000, and then, 75 percent up to $50,000 and 50 percent above $50,000; which, if it had become effective, would have practically taken all of the deposits in all banks under the insurable clause of the Federal Deposit Act.

Senator GLASS. That is the law now.

Mr. O'CONNOR. That is the law now, that is correct, Senator; it will be on July 1. It is the law, but not effective until July 1. Congress saw fit to put the temporary fund of $2,500 into effect, and then extended it to $5,000, which is now in effect.

Senator MCADOO. You mean insurance, instead of fund?

Mr. O'CONNOR. Insurance of these deposits, and that meant that in national banks 42 percent of the total deposits in national banks are insured under the $5,000 provision, which leaves the Comptroller's office responsible for 60 percent of the deposits. In view of that particular effect, it rather occurred to me that inasmuch as the Comptroller's office now has 1,530 actual and active receiverships; and in view of the fact that there have been only two national bank failures and in receivership that are now being liquidated by the Federal Deposit Insurance Corporation as receiver, that it is a waste or duplication of effort to have two organizations acting as receivers set up and have an entirely different liquidating agency for just two national banks. I think until the 1,530 receiverships are gotten out of the way and until some appreciable number of national banks

failed, that this waste should not occur and that the Federal Deposit Insurance Corporation should file its claim the same as any other claimant or debtor, and permit the Comptroller to liquidate the banks under the law.

Senator GLASS. What has been the cost of receiverships under the Comptroller?

Mr. O'CONNOR. Quoting from my annual report for the year closed on October 31 last:

> Expenses incident to the administration of the 1,219 closed trusts, such as the receivers' salaries, legal and other expenses, amounted to $33,578,643, or 3.86 percent of the book value of the assets and stock assessments administered, or 7.39 percent of collections from assets and stock assessments. The assessments against shareholders averaged 68.25 percent of their holdings and total collections from such assessments as were levied amounted to 49.78 percent of the amount assessed.

A much better record than that, I might say, Senator, has been made in the larger banks, for instance, in Detroit, where we have the two largest receiverships. The expenses there have been less than 2 percent. In other words, out of every dollar collected we have made available for creditors 98 cents on the dollar.

Now, to complete the statement I made a few moments ago, because it is the other counterpart, we had, at the close of the banking holiday 1,417 unlicensed banks, with deposits of $1,971,960,000. That was a period of a little more than 2 years ago.

And it is of great interest, I think, to note just what has been done with those 1,417 national banks: 1,095 have been reorganized under old or new charters or absorbed by another national bank, with deposits of $1,807,334,000. And 31 of those national banks quit or left the banking system voluntarily, and paid their depositors in full the sum of $11,513,000.

And there were 291 of those banks placed in receivership that had deposits of $153,113,000; and of that sum—that is, the sum in receivership—we have already returned to the depositors $54,250,490.

And that indicates that of the approximately $2,000,000,000 of deposits that were frozen in the banks at the close of the banking holiday there now remains only 5 percent that is not available to the depositors. And I am very pleased to report to the committee that there is not a single conservatorship created during the banking holiday that is left in the system at present.

Senator GLASS. Can you tell us or conjecture why those 1,417 banks were not licensed when other banks that were insolvent were licensed?

Mr. O'CONNOR. Senator, my records do not show that any banks were licensed that were not solvent.

Senator GLASS. The Secretary of the Treasury told me positively that he licensed over 1,000 that were not solvent.

Mr. O'CONNOR. That is why I wanted to correct that statement. I do not know whether he referred to State banks or what he referred to, but certainly it was not correct as to national banks.

Senator GLASS. He said member banks. That included in all a thousand State banks?

Mr. O'CONNOR. Yes; 900 and something.

Senator GLASS. I cannot be mistaken about it.

Mr. O'CONNOR. No; I am not saying that you were.

Senator GLASS. I jocularly said to him that that was contrary to the Federal statute that made it a penal offense, and that 3 months theretofore we had sent man to the penitentiary from Danville, Va., for taking deposits over the counter when he knew his bank was insolvent. He laughed and said he hoped I would not send him there. I told him "No; I was personally too fond of him."

Senator BANKHEAD. You mentioned something about 5 percent. I did not get that.

Mr. O'CONNOR. Of the 1,417 we reorganized and reopened 1,095, with deposits of $1,807,334,000; 31 of the national banks decided to close up and go out of business, and pay their depositors in full, which they did, a total of $11,513,000. That left 291 of those banks that were not able to reorganize. In other words, they could not get the capital, or the banks were in such bad condition that they could not be reopened under any conditions. In those 291 banks there were total deposits of $153,113,000, and we paid to the depositors in those banks a total of $54,250,490.

Now, that leaves, roughly, $100,000,000, which is approximately 5 percent.

Senator BANKHEAD. Of the total deposits?

Mr. O'CONNOR. That is right. That was left after the banking holiday.

Senator BULKLEY. To what do you attribute the extraordinarily low cost of liquidation of the Detroit banks?

Mr. O'CONNOR. To the large sum involved. That always gives a low cost proportionately.

Senator BULKLEY. The rule is that in a large institution or bank, you can work out a better ratio?

Mr. O'CONNOR. Yes. To give you one illustration: One of those banks had deposits of about $415,000,000. We paid the receiver $14,000. There is no private institution that could get a man to go in there and do that work for $14,000.

Now, the proof of the fact that we can do it at low cost is that our receiver was offered a much higher salary and went to a concern that paid him a much higher salary, and then I was able to take that receivership and combine it with the other one in Detroit, so that instead of paying $28,000, I am paying one receiver out there $16,000.

Senator MCADOO. Under that practice, Mr. Comptroller, of the liquidation of insolvent banks, you do not permit the receivers to receive a commission? You pay them a salary, always, which is commensurate with the character of the work they have to do; is that not a fact?

Mr. O'CONNOR. Senator McAdoo, that is one of the most important distinctions between receiverships of national banks and other receiverships. There is no commission paid to anyone in a receivership. A receiver is paid a straight salary, and every attorney that is appointed to represent the trust signs an agreement allowing the Comptroller to fix his fee at a reasonable sum. He submits his bill to us, and then the lawyers here in my office go through it, item by item, and he agrees to accept their conclusions.

Senator MCADOO. Mr. Comptroller, it has been, as I recall the law, the historic right of the Comptroller of the Currency to appoint receivers and to liquidate insolvent banks.

Mr. O'CONNOR. For 70 years.

Senator McAdoo. During the whole period of years that that practice has existed in the Comptroller's office, a very fine organization has been built up of expert men who know how to handle such things, and that is why you get such a fine administration in those banks and at such a low cost; is that not a fact?

Mr. O'Connor. Yes, sir.

Senator McAdoo. Do you see any reason why the Comptroller's office should be deprived of that administration of receiverships and the work sent somewhere else?

Mr. O'Connor. No; I cannot see it.

And a second reason is that we are able to list all of the securities that we find in those banks and dispose of them at good rates. We send the securities to New York, which is the best market for sales. We have a very efficient staff there working with the Treasury. In other words, we do not permit the indiscriminate sale of securities, but require an orderly liquidation.

I might mention this one principle: We took in a great many Home Owners' bonds in exchange for real-estate mortgages which we had. And in discussing that with the liquidating department of my office, we gave orders that no bond was to be sold for less than par. That was specific orders. In other words, when the market got above par and investors wanted them we sold them. When they got below par we stopped selling them. For that reason we have not sold any below par.

Senator McAdoo. I want to get your view of this: In the administration of bankruptcies in the Federal courts, by a subcommittee of the Senate it was developed that the net returns to the beneficiaries was, in each instance, extraordinarily small; that not only applied to equity receiverships, but also to bankruptcies; and it was clearly shown that some more efficient method would have to be devised for the liquidation of those bankrupt assets, particularly. I would think, from my recollection of the testimony, that the figures were just the reverse from the figures that you have shown. In other words, instead of cost being 2 percent, the cost was probably 98 percent, and the beneficiaries got 2 percent, or in that neighborhood. Now, is it at all possible to enlarge your administrative force there on a national scale to administer bankruptcies in the Federal courts? I think it is perfectly clear that some more efficient organization must be effected to administer those bankruptcies. Equity receiverships is another class, but bankruptcies are quite different.

Mr. O'Connor. Senator, that would, of course, depend, first, on an analysis which I do not have, of the number and the amounts involved of all those receiverships, bankruptcy receiverships, and so forth, in the Federal courts, and then to determine just what it would require in the way of a national administration to administer them. I do think that some unified control should be exercised, and then developed to the extent that Congress desired it. I think that there ought to be some commencement or beginning of it, and then develop it as Congress would determine on the basis of what we are doing in the national banks.

Senator McAdoo. I want to say that I think it is an unfair question to ask you, with the idea that you could give me a response to it at this time, because it has not been brought to your attention. I would

be glad if you would think of it, because it will become a live question in a little while.

Senator GLASS. I am glad the Comptroller's Office has gotten so efficient in the administration of receiverships because it has not always been so. I have known receiverships to extend over a period of 12 years.

Senator MCADOO. That was in the old days.

Senator GLASS. And there was not anything difficult about them, either.

Senator BYRNES. Mr. Chairman, may I ask a question along this line?

Senator GLASS. Certainly.

Senator BYRNES. I assume that the Federal Deposit Insurance Corporation should handle their receiverships, because of their interest in the insurance of deposits; is that right?

Mr. O'CONNOR. Yes; that's the present law Senator.

Senator BYRNES. Now, the receivership is to liquidate the trust for all creditors other than depositors?

Mr. O'CONNOR. That is right.

Senator BYRNES. If the Federal Deposit Insurance Corporation has charge of the receivership, and there be a stock liability, it would be to their interest to press that, because it would inure to the benefit of the deposits and, therefore, to their fund, and the Comptroller of the Currency, having the interest of all creditors, might not be as anxious to hurriedly collect the stock liability. Would that be true?

Mr. O'CONNOR. No, Senator; I think our record shows that we have gotton every dollar that is available out of stock liability and. frankly, it is not a pleasant task to have to sign these stock assessments, and Congress has released us of it.

Senator BYRNES. It is a very disagreeable task, I suppose.

Mr. O'CONNOR. Yes. And you will not have anything of that in the future, because you have eliminated it as to new banks and this bill will eliminate it as to all banks.

Senator MCADOO. It was a very brutal thing to do, and a brutal performance, in many instances.

Mr. O'CONNOR. Yes.

Senator GLASS. In the matter of consolidations, Mr. Comptroller, where do you think that authority ought to reside? I mean, the consolidation of smaller banks in order to meet the requirements?

Mr. O'CONNOR. You cannot localize that very well, Senator, for this reason: That the Comptroller's office is, of course, responsible and interested in the national banks, if it happens to be a national bank. If it is a member State bank, then the Federal Reserve is in the picture and should be consulted.

Senator GLASS. The Comptroller of the Currency is ex officio a member of the Federal Reserve Board?

Mr. O'CONNOR. Yes, Senator. Now, if you find a bank that is a State bank not a member of the Federal Deposit Insurance Corporation, you must have the Federal Deposit Insurance Corporation cooperating with the merger, because that is the only one that has any jurisdiction—either the Federal Deposit Insurance Corporation or the Federal Reserve Board.

Senator GLASS. Well, the law could make membership in the Federal Reserve a prerequisite to the right of being insured.

Mr. O'CONNOR. Yes; any condition that Congress may write in as a prerequisite to membership in the fund.

Senator GLASS. That is what I mean.

Mr. O'CONNOR. Yes, of course.

Senator GLASS. About the assessments on banks, I do not know whether I questioned you about that when you were here before.

Mr. O'CONNOR. You asked me for some figures.

Senator GLASS. There were differing views as to that. My own view and that of others has been that there should not be an annual assessment beyond a certain figure, and when that figure is reached the assessment should automatically cease, and be automatically resumed when the fund is impaired. What amount would be brought in by the one-eighth of 1 percent assessment and what amount by the one-twelfth of 1 percent assessment?

Mr. O'CONNOR. Senator, before I go to that, with your permission and the permission of the committee, could I just put in the record the figures showing unpaid deposits in these receiverships and the amount of deposits that we have paid?

Senator GLASS. Yes.

Mr. O'CONNOR. Of the 1,530 receiverships of banks, the deposits at closing were $1,871,681,991; and the deposits paid to date are $1,032,673,040. We have distributed to depositors, since March 16, 1933, $644,793,467. And if I have these figures correct in my mind, I think that is about 54 percent return.

Senator COUZENS. Does that include loans that you got from the R. F. C., when you talk about distributing to depositors?

Mr. O'CONNOR. Yes; that includes that.

Senator BYRNES. That made it possible?

Mr. O'CONNOR. Yes; in that amount. Now, Senator, to answer your question——

Senator MCADOO (interposing). If I may ask you this: What percentage of loans does that represent from the R. F. C.?

Mr. O'CONNOR. I have not those figures with me, Senator.

Senator GLASS. You may put them in.

Mr. O'CONNOR. I will be glad to. The figure is 59 percent but I might mention, however, that loans from the Corporation to receivers and conservators of national banks were not employed 100 percent in making distributions to depositors of such banks. That is to say, in certain instances portions of R. F. C. loans have been used as necessary to retire secured indebtedness of banks and to redeem pledged assets in order that such redeemed assets might thereafter be either liquidated or used as collateral to additional loans from the Corporation. As no analysis has been made in my office as to the proportion of R. F. C. loans employed exclusively in the payment of dividends and as to now do so would require many days of work upon the part of a number of men, I assume you will not require this exact data, which in any event would not give a materially different percentage from that quoted above based upon total loans.

Now, to answer your question, Senator:

An assessment for the 13-year period from 1921 to 1933, inclusive, of one-twelfth of 1 percent would amount to $545,454,077.

Senator GLASS. One-twelfth of 1 percent?

Mr. O'CONNOR. Yes, Senator.

Senator COUZENS. Over what period?

Mr. O'CONNOR. Thirteen years.

Senator COUZENS. Why do you fix 13 years?

Mr. O'CONNOR. I just go back to 1921.

Senator COUZENS. Oh!

Mr. O'CONNOR. For the same period, one-eighth of 1 percent would amount to $818,181,115.

Senator COUZENS. That is, collecting this assessment every year?

Mr. O'CONNOR. Yes, Senator.

One-sixth of 1 percent for the same period would amount to $1,090,908,154.

Senator TOWNSEND. Would that be allowing interest each year?

Mr. O'CONNOR. No. I will come to that, Senator.

Then, 1 percent for the same period the assessments would amount to $6,545,448,924.

Now, if we take one-twelfth of 1 percent on the total deposits for the 13-year period—and I will just pick out 2 or 3 years, just to give an idea: In 1921, with 30,812 banks, with total deposits of $38,-664,-987,000, the income at one-twelfth of 1 percent would be $32,220,823.

And while I have them for each year I will just go down to 1927: Total banks, 27,061; total deposits, of $56,751,307,000, with an assessment income of $47,292,756.

And then, coming down to 1933, with 14,624 banks, with total deposits of $41,533,470,000, we have an income of $34,611,225.

Now, I will just take two or three illustrations throughout that period of 13 years. On the one-twelfth of 1 percent the earnings, at 3½ percent, on the $325,000,000 of capital structure of the Corporation would be $7,875,000. And recoveries from advances made, $9,685,575. That would give us a total income of $49,781,398. Advances to pay insured deposits as of that date in that year 1921, $77,484,600. And the expenses of operation I have fixed through the entire period at $2,500,000 per annum, which would be a total disbursement of $79,984,600 for 1921.

There would be a loss that year if you had totaled your assessment of one-twelfth of 1 percent plus your earnings on your investment, plus your recoveries, of $30,203,202, which, of course, would come out of your capital, and which still leaves $294,796,798 of your capital. And during a period of 13 years, on your one-twelfth of 1 percent, we would be into the capital in 4 years of the entire 13—in 1931, 1932, 1933, and 1934—but under the bill we are permitted to borrow three times the capital; but it would only be necessary to borrow approximately one and one-half times the capital in the worst year of the 13-year period, which would be 1932. And then immediately we pick up in recoveries again from the closed banks, and from 1934 to 1937—and I am taking that period because we base it on a 5-year period of liquidation when we get into the recovery value of the assets—we would be into the red $99,662,818 on one-twelfth of 1 percent without any borrowing. We would only have to borrow, of course, that amount, and then after that the recoveries go on again for 1937.

Senator GLASS. Well, you are embracing the 13 years of the unprecedented period of bank failures, are you not?

Mr. O'CONNOR. Yes; I am.

Senator GLASS. Well, you do not think anything like that will ever happen again, do you?

Mr. O'CONNOR. Never.

Senator GLASS. It never happened before.

Mr. O'CONNOR. Now, let us take the figures on one-eighth of 1 percent. The assessment income would be $818,181,115 for the 13 years. The investment earnings would be $117,182,694. And the recoveries from advances made, $1,285,920,916, or a total income of $2,221,284,722. Less advances to pay insured deposits, $2,296,287,450. With expenses of operation of $35,000,000, or total disbursements of $2,331,287,450.

And during the 13-year period, the same period that I covered for the assessment of one-twelfth of 1 percent, we would be in the red the first year $14,092,791 instead of $30,203,202; and after that only three periods—in 1930, 1931, and 1932—would the corporation be in the red. And in 1932 the deficit would be $20,559,937 as against $39,472,549 under one-twelfth of 1 percent.

And then, in 1933, under the one-eighth of 1 percent, with our recoveries and our income we would be to the good again $157,904,593. And from 1934 to 1937 we would again have a surplus of $217,525,178.

Now, this is based on insured deposits over the period of 45 percent, which is the figure given by the Federal Deposit Insurance Corporation of 43.5, of total deposits in all banks, the national banks being insured 42.29 percent for $5,000 and the member State banks being insured 67.7 percent, and the State banks being insured 72.43 percent of their total deposits, or an average of 43.5 percent. So we take the figure, then, during that time of 43 percent, and the eventual losses of 44 percent, and the recoveries at 56 percent put back into the fund.

Now, of course, as Senator Glass has pointed out, with those figures we have got to keep in mind the very important fact that the number of bank suspensions in this period was 11,278, and nobody believes that we will ever have any such picture as that again. So, of course, it would make the figures here much more favorable to this assessment.

Senator GLASS. Without meaning to give it any suggestion of politics, the last year of Mr. Wilson's administration there was one national bank failure.

Senator COUZENS. What would happen, Mr. Chairman, to this situation if our loaning continued and our credit was wrecked, as you suggested?

Senator GLASS. I do not think it would have been continued and wrecked.

Senator COUZENS. I think you said, and the Comptroller said, that this condition that has existed in the last few years would not happen again.

Senator GLASS. Yes.

Senator COUZENS. And I asked you, in view of the fact that banks were so loaded with bonds, if it might not happen again if you continue to sell bonds.

Senator GLASS. If you continue to allocate them to banks, it might. The whole structure might be ruined, for that matter.

Senator COUZENS. How long will you continue, Senator?

Senator GLASS. As long as you gentlemen want to. I am sorry there are not more members of the subcommittee here.

Is there anything further you desire to discuss, Mr. Comptroller?

Mr. O'CONNOR. Senator, on title III which, you remember, largely becomes amendments to the banking act, I have prepared just a summary of each section that I should like to put into the record. It will save the members reading the entire bill.

Senator BULKLEY. I may want to ask some questions about that.

Mr. O'CONNOR. May I put this in, and also be subject to your call, Senator?

Senator GLASS. Yes; that may go into the record.

(The summary referred to is here printed in the record in full, as follows:)

EXPLANATION OF OBJECT OF PROPOSED AMENDMENTS CONTAINED IN TITLE III OF S. 1715

The majority of the amendments in question are based upon H. R. 9876 and S. 3748 submitted at the last session of Congress, which bills were mutually acceptable to the Federal Reserve Board and to the Comptroller's Office and were favorably reported by the Banking Committee of both Houses.

There has been placed before you copies of S. 1715 showing marked in red and by typed inserts certain eliminations and additions that have been suggested to the bill's original provisions in title III, which changes I will explain as each section is discussed.

A general statement of the object of the various amendments suggested in last year's bill and now resubmitted and those added thereto in title III of this bill are as follows (where these amendments were not embraced in last year's approved bills or are substantially different from those presented, the notation "new" appears in connection with this explanation):

Section 301: Amends section 2 (c) of the Banking Act of 1933 so as to exclude from the very broad definition of the term "holding-company affiliate", and hence from all provisions of law regarding such affiliates (except the provisions of section 23A of the Federal Reserve Act regarding loans to and investments in the securities of such affiliates), every corporation wholly owned by the United States and every organization which, in the judgment of the Federal Reserve Board, "is not engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies."

Section 302: Amends section 20 of the Banking Act of 1933, which requires the divorcement of member banks from affiliated securities companies so as to make it clear that its requirements do not extend to a securities company which has been placed in formal liquidation and transacts no business except such as may be incidental to the liquidation of its affairs. This is in accord with rulings by the Federal Reserve Board and the Comptroller's Office as to a proper interpretation of the law.

Section 303 (a): Makes it clear that the provisions of section 21 (a) (1) of the Banking Act of 1933, prohibiting dealers in securities from engaging in the business of taking deposits, does not prevent banking institutions from dealing in, underwriting, purchasing, and selling investment securities to the extent expressly permitted to national banks under the National Banking Act and does not prevent banking institutions from selling mortgages without recourse. It will be observed that national banks are limited in dealing in and underwriting securities to doing so as to Government obligations, general obligations of States or political subdivisions, obligations issued under authority of the Federal Farm Loan Act, by the Federal Home Loan Board, or the Home Owners' Loan Corporation.

Section 303 (b): Makes it clear that section 21 (a) (2) of the Banking Act of 1933 does not require that business institutions which accept deposits only from their own officers, agents, or employees need submit to examination and publication of reports of condition. Hundreds of corporations, such as the Baltimore & Ohio Railroad, Chrysler Motors, Deere & Co., permit employees to leave part of their wages on deposit and in turn loan these funds to other employees so as to encourage thrift and be of assistance thereto.

This section also makes it clear that the expense of examining private banks by this office or by the Federal Reserve Board shall be paid by the institution examined as there are otherwise no funds available to bear the expense of such examination. I understand it is the sentiment of the House committee to repeal this subsection 21 (a) (2) entirely as it constitutionally is not only questionable, but no purpose is served by examining such banks when no power is given or can practically be given to force correction of dangerous conditions found. Also the public is misled from fact of Federal examination into assuming there is also actual Federal supervision with its attendant safeguards. I do not oppose repeal of the section.

Section 304 (new): Eliminates the double liability of shareholders of national banks on July 1, 1937. This provision considered desirable because of the fact that such liability has already been eliminated as to banks organized since June 16, 1933, and as to new capital issued since that date, with the result that at the present time many banks are in the awkward position of having outstanding some common stock with liability and other common stock without liability, resulting in needless confusion. Provision is being made in section 314 of this bill for banks gradually increasing their surplus out of earnings until same equals the bank's capital, thereby giving the creditors of the bank substantially the same additional protection which is now afforded by the assessment liability.

Section 305 (new): Corrects the accidental omission of national banks in Alaska and Hawaii from the benefits of an act passed last session repealing the requirement of section 31 of the Banking Act of 1933 that directors of national banks and member banks increase the amount of their shareholdings therein. This law was repealed incidentally because it was found physically impossible to enforce its requirement, with the result that many banks would have been forced to cease operation for lack of a qualified board of directors.

Section 306 (new): Gives the Federal Reserve Board power to control relationships of officers, directors, and employees of banks with securities companies through regulation, thereby saving the great burden involved in present procedure of issuing individual permits.

Section 307 (a) (new in part: Makes it clear that section 16 of the Banking Act of 1933 was not intended to prohibit national banks or member banks from buying or selling stocks solely for the account of their customers and as an accommodation thereto and not for their own account. Extremely important, particularly in communities remote from financial centers and since there is involved no investment by the bank of its own funds, no objection can be seen thereto. The amendment further limits national banks in purchasing investment securities for their own account to the purchase of same in an amount as to any one issue limited to 10 percent of the bank's unimpaired capital and surplus. The present law permits such investment in any one issue to an amount equal to 15 percent of the unimpaired capital and 25 percent of surplus, except where the total issue does not exceed $100,000 and does not exceed 50 percent of the capital of the association.

Section 307 (b): This section merely restates in clearer form the existing prohibition against national banks purchasing stock for their own account.

Section 308 (new): Section enacts into law present requirements of the Comptroller's office as a matter of policy that newly organized national banks have a paid-in surplus equal to 20 percent of capital before being authorized to do business, which requirements may be waived where necessary in connection with a State bank converting into a national bank.

Section 309 (new): Eliminates any possibility of section 18 of the Banking Act of 1933 being construed as preventing corporations other than a bank from conditioning transfer of their shares on the simultaneous transfer of shares of bank stock but preserving the unimpeded free and unconditional transfer of bank stock.

Section 310 (a): Permits holding company to vote on the question of placing a bank in voluntary liquidation without having to go through the expensive routine incidental to obtaining a voting permit, and section 310 (b). Under present law shares held by a bank as sole trustee cannot be voted. It consequently sometimes results where a large number of shares are so held in trust that it is impossible to obtain the requisite number of votes required by law to accomplish certain steps such as reduction in capital, amendments to articles, etc., or to vote to go into voluntary liquidation where such is neces-

sary. Provision is accordingly made that the shares so held in trust shall be excluded in determining whether the resolution in question has been adopted by the requisite number of shares. For example, a bank has 1,000 shares outstanding. Four hundred of the shares, however, cannot be voted because held in trust by the bank as sole trustee. Consequently, in determining whether or not a resolution has been adopted by the required two-thirds vote, the 400 shares held in trust will be excluded, leaving a balance of 600 shares as the basis for determining whether a two-thirds vote has been obtained, in which case a vote of 400 shares in favor of the matter would be the requisite two-thirds majority of the shares entitled to vote.

It is suggested these two subsections be rewritten and combined as one section as per the draft before you and adding these additional changes: (1) To show clearly that present law does not limit extra voting rights of Reconstruction Finance Corporation or other holders of preferred stock in case of default on preferred dividends; (2) it permits stock held in trust by bank as sole trustee to be voted where donor or beneficiary directs or controls manner in which it shall be voted. This is desirable because the bank as trustee does not then in fact control such vote.

Section 310 (c) (new): Eliminates any doubt that a holding company which has met the requirements for obtaining a voting permit may cumulate its shares in the same manner as other shareholders are permitted to do. This is in conformity with the construction placed upon the present law by the Federal Reserve Board and by the Comptroller's office.

Section 311: Gives discretion to the Comptroller to permit a State bank converting into a national bank to carry over and retain, subject to certain conditions, such sound assets as a State bank may have which do not conform to the requirements as to assets held by national banks.

Section 312: Permits the Comptroller to delegate the manual labor of countersigning bond transfers in connection with substitution of securities held to secure circulation issued by national banks.

Section 313: Permits branches of national banks, which branches are located outside of the United States, to charge same interest rate permitted by local law to competing institutions.

Section 314 (new): Provides that before the declaration of dividends, national banks shall carry not less than one-tenth of their net profits of the preceeding half year to surplus until same is built up to an amount equal to the common capital instead of present requirement that same need only equal 20 per centum of capital. This change is deemed desirable in connection with the provision that assessment liability be eliminated from bank stock and is further desirable from the standpoint of building up a proper capital structure.

Section 315 (new): Extends the criminal provisions of existing law relative to embezzlement, false entry, etc., by officers and employees of member banks to include any insured bank.

Section 316: Gives the Comptroller closer supervision over national banks in voluntary liquidation as distinguished from those in receivership by requiring reports to him and to the shareholders and subjecting the bank to examination. Also enables shareholders to remove an incompetent liquidating agent.

Section 317 (new): Extends present prohibition on use of word, "national", by banks other than national banks, to include "Federal" or "United States", or any combination of such words.

Section 318. Amends section 5 of the Federal Reserve Act so as to require member banks to reduce their holdings of Federal Reserve bank stock upon a reduction in their own surplus, just as they are already required to do upon a reduction in their own capital. It would also repeal the provisions of sections 5 and 6 of the Federal Reserve Act which require the board of directors of a Federal Reserve bank to execute a certificate to the Comptroller of the Currency showing an increase or decrease in the capital stock of the Federal Reserve bank. Inasmuch as every adjustment in Federal Reserve bank stock is approved by the Federal Reserve Board before the stock is issued or canceled, the filing of such certificates with the Comptroller of the Currency is a useless formality involving duplication of work.

Section 319: Authorizes Federal Reserve Board to prescribe form and contents of reports of condition to be made by State member banks and prescribes manner in which such reports must be published.

Section 320 (a): Amends section 11 (m) of the Federal Reserve Act so as to place State member banks on a parity with national banks in lending on the security of bonds, notes, certificates of indebtedness, and Treasury bills of the United States, by changing the limitation on loans to one individual on such security, from 10 percent of the bank's unimpaired capital and surplus to 25 percent thereof, as provided for national banks in section 5200 of the Revised Statutes.

Section 320 (b): Amends section 5200 of the Revised Statutes so as to extend the eighth exception thereof, which pertains to loans secured by bonds, notes, and certificates of indebtedness of the United States, so as to apply also to loans secured by Treasury bills of the United States.

Section 321 (new): Present law permits Federal Reserve bank to make direct loans to private business on adequate endorsement and security. The amendment permits such loan on adequate endorsement or security.

Section 322: This section makes certain changes in the language of section 13b of the Federal Reserve Act, making it conform to the amendment in title I of the bill whereby stock of the Federal Deposit Insurance Corporation subscribed for by the Federal Reserve banks is changed to no par value. These changes are in form only and do not alter the effect of the existing law.

Section 323 (a) (partly new): Authorizes Federal Reserve Board to define "deposit" and related terms for reserve and interest requirements respecting deposits.

Section 323 (b): Amends section 19 of the Federal Reserve Act so that, for purposes of computing member bank reserves, amounts due from other banks (including checks in process of collection) may be deducted from gross demand deposits rather than from balances due to other banks, thus extending the benefit of this deduction to country banks which have no balances due to other banks.

Section 323 (c): Amends section 19 of the Federal Reserve Act so as to add to the classes of deposits exempted from the prohibition against the payment of interest on demand deposits the following: (1) Deposits payable outside the States of the United States and the District of Columbia (rather than merely those payable in foreign countries); (2) deposits of trust funds on which interest is required by State law; and (3) deposits of the United States, its Territories, districts, or possessions on which interest is required by law.

The section is also amended to make more flexible the Federal Reserve Board's power to classify time and savings deposits and limit the rates of interest to be paid thereon. The absolute prohibition against the payment of time deposits before maturity is relaxed to permit such payments under conditions prescribed by the Board; and deposits payable only at offices of member banks located outside the States of the United States, and the District of Columbia are exempted from all restrictions on payment before maturity and all restrictions on interest rates.

Section 323 (d) (new): Requires member banks to maintain same reserves against Government deposits as against other deposits.

Section 324: Permits the Federal Reserve Board or the Comptroller of the Currency, as the case may be, to permit waiver of report and examination of affiliates of a bank where such report and examination is not necessary in a particular case to disclose relationship existing between the bank and the affiliate. This eliminates the burden and expense now involved in hundreds of cases where there is no beneficial object to be gained in requiring submission and publication of such report, due to the fact that the affiliate is merely a technical accidental affiliate having no relationships whatsoever with the bank, such as for example, newspapers, clothing stores, lumber yards, etc., which become technical affiliates because of the accident that a majority of their directors happen to be directors of the bank.

Section 325 (a) (new): Extends the present provisions of the law prohibiting loans and gratuities to examiners of member banks to include examiners of all insured banks.

Section 325 (b) (new): Extends to Federal Deposit Insurance Corporation examiners the present prohibitions of law against disclosure of confidential information by examiners.

Section 325 (c) (partly new): Corrects impractical features of present law relative to loans to executive officers of banks by vesting certain discretions with the Federal Reserve Board to issue regulations governing same and

substituting removal from office for present criminal provisions of the law. There is also a 3-year extension of time within which present loans must be retired, such extension, however, operative only if the board of directors adopt a resolution determining that it is to the best interest of the bank to make the extension and that the officer has made every proper effort to reduce his obligation.

Section 326 (partly new): Under present law there are certain rigid requirements and limitations on loans to affiliates. Exception to these requirements is provided for where the affiliation arose out of foreclosure by the bank on collateral. It is often necessary to advance funds to an affiliate, control of which has been obtained through foreclosure in order to enable the bank to salvage the real value out of its assets and reduce the bank's loss. Under the circumstances, such affiliate manifestly cannot borrow elsewhere. There is also excluded the accidental type of affiliate, control of which is obtained by the bank in a fiduciary capacity, as for example, where the bank becomes executor and/or trustee of the deceased's estate, among the assets of which is a going business which must be operated by the bank as such trustee. There is also excluded an affiliate engaged solely in operating property acquired for bank purposes. An additional exception now recommended is to exclude from the limitations of the section, loans fully secured by obligations fully guaranteed by the United States and loans to affiliates engaged solely in holding such obligations, thus extending present law in that respect as to direct obligations of the United States to include obligations guaranteed by the United States.

Section 327 (new): Exempts loans for industrial purposes made in cooperation with a Federal Reserve bank or the Reconstruction Finance Corporation from existing restrictions on real-estate loans by national banks, due to protection received by the banks from either the Federal Reserve bank or the Reconstruction Finance Corporation, where such loans are jointly made. As to such loans there is no need for such restrictions as are desirable for a real-estate loan made by the bank in its sole capacity. Furthermore, such existing restrictions have been found to seriously interfere with the scope and object of the Industrial Loan Act as they operate to prevent two or more banks cooperating with the Federal Reserve bank or the Reconstruction Finance Corporation in making a single industrial loan, prevents such loan where a substantial part of the security is real estate located outside of the restricted area in which national banks are limited in making real-estate loans, and for other reasons.

Section 328 (new): Amends the Clayton Act to permit the Federal Reserve Board to supervise by regulation instead of by permit the matter of interlocking directorates.

Sections 329 and 330: Bring the law governing consolidation of national banks into conformity with that governing consolidations of a State and National bank, and offers additional protection to dissenting shareholders in the matter of obtaining the appraised value of their stock. Requirement is made that notice of discount be given by such shareholders when the vote to consolidate is had.

Sections 331 and 332 (new): Extend to the Federal Deposit Insurance Corporation the protection now given by law to other Federal institutions against the misleading use of their name and extend to all insured banks present requirements of law making robbery of member banks a Federal offense.

Section 333: Amends section 5143 of the Revised Statutes so as to make it clear that, in approving reductions of capital stock by national banks, the Comptroller of the Currency, in order to conserve the assets for the protection of the banks, may specify that such banks shall not distribute a corresponding amount of their assets to their shareholders. The amendment would also strike out the words which make it necessary for capital-stock reductions to be approved by the Federal Reserve Board in addition to the Comptroller of the Currency, thus eliminating an unnecessary duplication of work.

Section 334: Amends section 5139 of the Revised Statutes by adding a paragraph specifying certain information to be stated on certificates hereafter issued representing shares of stock in national banks.

Section 335: Amends the last sentence of section 301 of the Emergency Banking Act of March 9, 1933, so as to require, in connection with the issuance of preferred stock, the same kind of a certificate by the Comptroller of the Currency as to the validity of such issue as is now required in the case of the issuance of common stock.

Section 336: Section 336 would terminate the liability of shareholders of banks and trust companies in the District of Columbia as of July 1, 1937, in a manner similar to that provided elsewhere in the bill for terminating the liability of shareholders of national banks.

Senator COUZENS. Does title III suggest anything more than was before us at the last session?

Senator BULKLEY. There are a few other matters; there are a few eliminations from it, and also some differences.

Senator GLASS. Mr. O'Connor, can you return in the morning at 10:30?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. We will recess until tomorrow morning at 10:30.

(Whereupon, at 12:05 p. m., a recess was taken until tomorrow, Friday, Apr. 26, 1935, at 10:30 a. m.)

BANKING ACT OF 1935

FRIDAY, APRIL 26, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Byrnes, Bankhead, and Couzens.

Senator GLASS. The committee will please come to order.

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY—Resumed

Senator GLASS. Mr. Comptroller, I wanted to ask you, first, if you ever had any particular observations of branch banking.

Mr. O'CONNOR. No, sir; I have not. I have not made a study of it, either, Senator.

Senator GLASS. You are not prepared to say what you think of branch banking?

Mr. O'CONNOR. No, sir.

Senator GLASS. Well, we were talking yesterday, when we recessed, about receiverships. Have you any informative information, any available information with respect to banks and receiverships?

Mr. O'CONNOR. Yes, Senator. There has been some question raised with reference to information for the benefit of depositors with reference to the closed banks, and I think it is well to get that point cleared up. In all receivership banks at the end of every quarter we post up in the bank a complete statement of the condition of that trust, so that everybody that has any interest in that trust may go to that bank and find out its condition.

Senator COUZENS. How long has that been the practice?

Mr. O'CONNOR. As long as I remember in the office, Senator, it has not been of recent adoption.

Now, that report, which is published quarterly, and usually the newspapers in the community publish that voluntarily for the benefit of the people, shows the following: Assets at date of suspension (book value as reported in receivers' first report); additional assets acquired since suspension (book value); stock assessment; total assets to be accounted for, cash collected from assets; cash collected from additional assets; cash collected from stock assessment; total cash collected from assets and stock assessments; offsets allowed on assets; losses charged off on assets and on stock assessment; remaining assets,

consisting of uncollected assets, uncollected additional assets, and uncollected stock assessment; and also a recapitulation of remaining assets: book and estimated values, showing uncollected assets, uncollected additional assets, uncollected stock assessment, and a total of the remaining assets.

And then under liabilities we show secured liabilities at date of suspension; unsecured liabilities at date of suspension, additional liabilities established, total liabilities of this date; secured and preferred liabilities paid in cash (paid by conservator); unsecured liabilities offset; unsecured liabilities for which receiver's certificates have been issued; unpaid secured liabilities (both proved and unproved) unsecured liabilities not paid or proved, total liabilities accounted for.

And then we show collections and disbursements: Collections from all sources, showing cash collected from assets and stock assessment; cash collected from interest, premium, and rents; cash collected by receiver, and held as trustee for owners; Reconstruction Finance Corporation loans received (loan to conservator); total collections to be accounted for.

Disbursements of every character, showing secured and preferred liabilities paid (including dividends) (paid by conservator); collateral account (collections held by secured creditors and not yet applied); advances in protection of assets (taxes, insurance, etc.); expenses of receivership (expenses and advances by conservator); dividends paid to unsecured creditors (paid by conservator); Reconstruction Finance Corporation loans repaid; cash in hands of receiver and Comptroller; and total collections accounted for.

In addition to that, there is an annual report of the Comptroller published each year; the year terminates on October 31, and in that report several hundred pages are devoted to the administration of the liquidation of closed banks.

Senator COUZENS. Individually, or collectively?

Mr. O'CONNOR. Both. For instance, I will give you individually what we show.

All collections by receivers, collection and offsets allowed; collections from stock assessments.

This is for each bank, Senator.

Amounts borrowed——

Senator COUZENS (interposing). Let me understand it. Do I understand that you put in a detail of this trust in your report; of each trust?

Mr. O'CONNOR. Yes; of the 1,500. I am pleased you asked that, Senator.

Amounts borrowed from the Reconstruction Finance Corporation; dividends paid by receivers to secured and unsecured creditors; distributions by conservators, payments to secured and preferred creditors; offsets allowed and settled; disbursements for protection of assets; receivers' salaries, legal and other expenses; conservators' salaries, legal and other expenses; a table showing the status, progress, and results of liquidation of all national banks placed in hands of receivers from the date of the first national bank failure in 1865 to October 31, last, the end of the fiscal year in the Comptroller's Office; separate tables giving dates of appointment of receivers; capital at date of organization and at date of failure; dividends paid while solvent; total deposits, bills payable, and rediscounts at date of failure; also

tables showing assets at date of failure, additional assets acquired subsequent to failure; offsets allowed; disposition of all collections and dividends paid to creditors of all insolvent national banks, this information being given in detail as to each and every national bank in liquidation.

Now, I have given you two methods of rather wide publicity, and the third method which we pursue is to call in a committee of the larger depositors of the trust—advising the receiver to do so, whenever he has the sale of some rather important asset of the trust. And the subcommittee knows that we cannot make a sale of property without a petition filed with the court setting forth the price, and the appraisement, and a hearing on it, and then the court, if he feels it fair and equitable to the trust, will permit it to be sold.

I can give you a good illustration right in this city. We have a rather large building; it is owned by one of the receivership banks in Washington, and we were offered $400,000 for it, cash. The receiver and representatives of the Comptroller's Office went into the matter rather carefully, and I, myself, went down to the building and went through the nine floors, and through the stores and the offices, and we declined the $400,000 offer, and within 30 days the offer was raised to $450,000. Before we accepted that we called in a committee of five or six representing the largest depositors in that bank. We asked them for their judgment of the matter and gave them all the information we had. They came up to my office. I talked to them personally about it. They all felt that we should accept it, felt it was a very good offer. And we had for their information the income from the building, the taxes, and the upkeep, and everything. That offer was filed with the court for approval, and the court has given 2 or 3 weeks of published notice to that petition, and it is in its file and it will be acted upon on the date fixed in that petition. That is an illustration of the way these receivership matters are handled.

Senator GLASS. Mr. Comptroller, while you have available for all interested parties and for the public information of the sort recited by you, you give out that information through your regular force, do you not? You do not employ an expert publicity agent?

Mr. O'CONNOR. No; I have no such agent.

Senator GLASS. That is contrary to law.

Mr. O'CONNOR. Yes, sir.

Senator GLASS. But it looks to me like every bureau in Washington has an expert publicity agent hired.

Mr. Comptroller, I note in the newspapers what is a mistake, and I assume an inadvertent mistake. Yesterday, or the day before, when you were testifying, you gave the amount of indebtedness of executive officers of national banks, and the reduction made. You did not mean to have anyone infer that there had been any loans to executive officers since the passage of the Bank Act of 1933, did you?

Mr. O'CONNOR. No, Senator; no loans have been made, according to the reports of examinations filed in the Comptroller's office, by any national bank to any executive officer since the passage of the Bank Act of 1933; and the figures that I gave showing the indebtedness of executive officers, both directly and indirectly, the two figures referred to the loans that were then in the national banks as of June 30, 1933. And then I followed that by showing the reduction that had been

made. But no new loans to the executive officers have been made since the passage of that act.

Senator, might I clear up a matter that Senator Couzens asked about yesterday?

Senator GLASS. Yes.

Mr. O'CONNOR. I said I would bring the figures today. Senator Couzens, yesterday, when I gave the amount of dividends that had been distributed to depositors in closed banks since March 16, 1933, the total being $644,793,467, the Senator inquired whether I had a break-down showing how much of that sum had been borrowed from the Reconstruction Finance Corporation. I am prepared now, Senator, to give those figures.

Senator COUZENS. Very well.

Mr. O'CONNOR. The Office of the Comptroller of the Currency borrowed from the Reconstruction Finance Corporation, from March 16, 1933, to April 20, 1935, $275,181,347.

We have repaid to the Reconstruction Finance Corporation——

Senator BULKLEY (interposing). Is that the gross amount that has been loaned to the banks?

Mr. O'CONNOR. Yes; to closed banks.

Senator BULKLEY. To closed banks?

Mr. O'CONNOR. Yes; about a billion has been loaned to all bank, total.

Senator BULKLEY. You mean to closed banks?

Mr. O'CONNOR. Yes.

We have repaid to the Reconstruction Finance Corporation $160,125,692; not quite 50 percent has been repaid. As we would collect on these assets, of course, we make repayment at once to the Reconstruction Finance Corporation.

Senator BYRNES. You say you borrowed $275,181,347 and paid back $160,125,692?

Mr. O'CONNOR. That is right.

Senator BYRNES. That is more than 50 percent.

Mr. O'CONNOR. Yes. I deducted it. You are correct, Senator.

Now, all of this amount of $275,181,347 that was borrowed, of course, was not available for dividend purposes. I did not take the trouble to break that down, but I just want to call your attention to the fact that a large part of that sum—not intending to use the word "large" by more than 50 percent—but a large part of it was used for the payment of preferred claims.

Senator BANKHEAD. And to recapture collaterals?

Mr. O'CONNOR. Yes; and to recapture collaterals, to bring it back into the bank, of course. And a part of it was used to repay the Reconstruction Finance Corporation, and we made a new loan to take care of this and new matters. I have not a break-down of that. I would be glad to furnish it if the committee cares for it.

Now, Senator, for the information of the committee, I would like to put into the record a table I used yesterday with reference to the assessment for all purposes for thirteen years on one-eighth of 1 percent, if there is no objection.

Senator GLASS. That will be received.

(The table referred to is here printed in the record in full, as follows:)

Summary of hypothetical projection of a deposit insurance corporation's operating statements, period Jan. 1, 1921, to Mar. 15, 1933

Combined capital and surplus fund of Corporation as of Jan. 1	$325,000,000
Add:	
Assessment income (one-eighth of 1 percent)	818,181,112
Investment earnings for year (3½ percent)	117,182,694
Recoveries from advances made	1,285,920,916
Total income	2,221,284,722
Less:	
Advances to pay insured deposits	2,296,287,450
Expense of operation	35,000,000
Total disbursements	2,331,287,450
Net loss	110,002,728
Combined capital and surplus fund of Corporation at end of period	214,997,272
Number bank suspensions	11,278
Total deposits	$5,102,861,000
Insured deposits (45 percent)	$2,296,287,450
Losses (eventual, 44 percent)	$1,010,366,534
Recoveries (eventual, 56 percent)	$1,285,920,916

MEMORANDUM

Assessments, 13-year period:	
One-twelfth of 1 percent	$545,454,077
One-eighth of 1 percent	$818,181,115
One-sixth of 1 percent	$1,090,908,154
1 percent	$6,545,448,924
Total bank suspensions, period Jan. 1, 1921, to Mar. 15, 1933	11,278
Total nonlicensed banks placed in liquidation or receivership Mar. 16, 1933, to Dec. 31, 1934:	
National	860
State member	68
Nonmember	1,092
Total	2,020
Total insured banks in the United States as of Oct. 31, 1934, numbered	14,125
Total reporting banks in the United States as of June 30, 1934, numbered	15,894
Total insured deposits represented in the attached schedule have been predicated upon a percentage factor of currently insured deposits in active banks, of approximately—percent	45
The amounts of liquidation recoveries given in the attached schedule are predicated upon a total liquidation recovery, over a 5-year period of	*Percent* 56
Such recoveries have been further analyzed and found to occur at the approximate progressive annual rates of	25, 15, 8, 5, 3
Relative to the above-mentioned liquidation recovery rate of 56 percent, the records of my office indicate the average percentage of dividends paid in all national-bank receiverships liquidated and finally closed from 1865 to Oct. 31, 1934, to have been	66.51
The records of my office further indicate the average percentage of dividends paid in national-bank receiverships liquidated and finally closed during the 10-year period ended Oct. 31, 1934, to have been	56.82

The average liquidation recovery percentage of 56 percent used in the calculation herewith represents, therefore, some reduction in the rate apparent for

national-bank liquidations on account of the assumed lower percentage of liquidation in banks other than national.

The records of my office indicate the average period of liquidation for national bank receiverships liquidated and finally closed during the 13-year period 1921 to 1934, to have been—5 years.

The issue of debentures to the Government in an amount substantially less than the total authorized by law would have adequately served to cover the deficits appearing in the attached schedule for the years 1931, 1932, and 1933, and such debentures could be repaid from earnings in subsequent years.

Annual investment income, period Jan. 1, 1921, to Dec. 31, 1933, predicated upon an average return of 3½ percent upon invested funds

Year	Invested funds	Earnings
1921	$225,000,000	$7,875,000
1922	210,907,209	7,381,752
1923	246,064,640	8,612,122
1924	265,863,872	9,305,235
1925	272,874,000	9,550,590
1926	311,419,966	10,899,699
1927	318,050,521	11,131,768
1928	360,708,376	12,624,793
1929	428,838,790	15,009,358
1930	458,118,802	16,034,158
1931	250,234,826	8,758,219
Total	[1] 257,544,692	117,182,694

[1] Average invested funds.

Annual assessment income, period Jan. 1, 1921, to Dec. 31, 1933, predicated upon an assessment rate of ⅛ of 1 percent of total deposits of active banks

Year	Total banks	Total deposits	Assessment income
June 30:			
1921	30,812	$38,664,987,000	$48,331,234
1922	30,389	41,128,352,000	51,410,440
1923	30,178	44,249,524,000	55,311,904
1924	29,348	47,709,028,000	59,636,284
1925	28,841	51,995,059,000	64,993,824
1926	28,146	54,069,257,000	67,586,571
1927	27,061	56,751,307,000	70,939,134
1928	26,213	58,431,061,000	73,038,826
1929	25,330	57,910,641,000	72,388,300
1930	24,079	59,847,195,000	74,808,993
1931	22,071	56,864,744,000	71,080,929
1932	19,163	45,390,269,000	56,737,836
1933	14,624	41,533,470,000	51,916,837
Total		654,544,894,000	818,181,112

A projection of hypothetical operating statements of a deposit insurance corporation by years for the period Jan. 1, 1921 to Mar. 15, 1933, predicated upon an initial combined capital and surplus fund of $325,000,000, an annual assessment rate of ⅛ of 1 percent of total deposits in active banks, a maximum insurance of $5,000, a liquidation period of 5 years, and the inclusion of liquidation operations to 1937 to give effect to total eventual recoveries upon all advances made

	1921	1922	1923	1924	1925	1926	1927
Combined capital and surplus fund of corporation as of Jan. 1	$325,000,000	$310,907,209	$346,060,640	$365,863,872	$372,874,000	$411,419,966	$418,050,521
Add:							
Assessment income, (⅛ of 1 percent)	48,331,234	51,410,440	55,311,904	59,636,284	64,993,824	67,586,571	70,939,134
Investment earnings for year (3½ percent)	7,875,000	7,381,752	8,612,122	9,305,235	9,550,590	10,899,699	11,131,768
Recoveries from advances made	9,685,575	20,730,589	25,699,656	35,136,559	41,901,302	47,814,385	52,785,003
Total income	65,891,809	79,522,781	89,623,682	104,078,078	116,445,716	126,300,655	134,855,905
Less:							
Advances to pay insured deposits	77,484,600	41,869,350	67,320,450	94,567,950	75,399,750	117,170,100	89,698,050
Expense of operation	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Total disbursements	79,984,600	44,369,350	69,820,450	97,067,950	77,899,750	119,670,100	92,198,050
Net income or loss	*14,092,791*	35,153,431	19,803,232	7,010,128	38,545,966	6,630,555	42,657,855
Combined capital and surplus fund of corporation as of Dec. 31	310,907,209	346,060,640	365,863,872	372,874,000	411,419,966	418,050,521	460,708,376
Less cash reserve	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000
Available investment funds	210,907,209	246,060,640	265,863,872	272,874,000	311,419,966	318,050,521	360,708,376
Bank suspensions—number	505	367	646	775	618	976	669
Total deposits	$172,188,000	$93,043,000	$149,601,000	$210,151,000	$167,555,000	$260,378,000	$199,329,000
Insured deposits (45 percent)	77,484,600	41,869,350	67,320,450	94,567,950	75,399,750	117,170,100	89,698,050
Losses (eventual, 44 percent)	34,093,224	18,422,514	29,620,998	41,609,898	33,175,890	51,554,900	39,467,142
Recoveries (eventual, 56 percent)	43,391,376	23,446,836	37,699,452	52,985,052	42,223,860	65,615,200	50,230,908

NOTE.—Italic indicates red figures.

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A projection of hypothetical operating statements of a deposit insurance corporation by years for the period Jan. 1, 1921 to Mar. 15, 1933, predicated upon an initial combined capital and surplus fund of $325,000,000, an annual assessment rate of ⅛ of 1 percent of total deposits in active banks, a maximum insurance of $5,000, a liquidation period of 5 years, and the inclusion of liquidation operations to 1937 to give effect to total eventual recoveries upon all advances made—Continued

	1928	1929	1930	1931	1932	1933	1934–37
Combined capital and surplus fund of corporation as of Jan. 1	$460,708,376	$528,838,790	$558,118,802	$350,234,826	*$139,872,562*	*$160,432,499*	*$2,527,906*
Add:							
Assessment income, (⅛ of 1 percent)	73,038,826	72,388,300	74,808,993	71,080,929	56,737,836	51,916,837	
Investment earnings for year (3½ percent)	12,624,793	15,009,358	16,034,158	8,758,219			
Recoveries from advances made	49,127,795	48,171,704	87,786,223	193,354,514	247,233,927	206,468,506	220,025,178
Total income	134,791,414	135,569,362	178,629,374	273,193,662	303,971,763	258,385,343	220,025,178
Less:							
Advances to pay insured deposits	64,161,000	103,789,350	384,013,350	760,801,050	322,031,700	97,980,750	
Expense of operation	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Total disbursements	66,661,000	106,289,350	386,513,350	763,301,050	324,531,700	100,480,750	2,500,000
Net income or loss	68,130,414	29,280,012	*207,883,976*	*490,107,388*	*20,559,937*	157,904,593	217,525,178
Combined capital and surplus fund of corporation as of Dec. 31	528,838,790	558,118,802	350,234,826	*139,872,562*	*160,432,499*	*2,527,906*	214,997,272
Less cash reserve	100,000,000	100,000,000	100,000,000				100,000,000
Available investment funds	428,838,790	458,118,802	250,234,826				114,997,272
Bank suspensions.....number	499	659	1,352	2,294	1,456	462	
Total deposits	$142,580,000	$230,643,000	$853,363,000	$1,690,669,000	$715,626,000	$217,735,000	
Insured deposits (45 percent)	64,161,000	103,789,350	384,013,350	760,801,050	322,031,700	97,980,750	
Losses (eventual, 44 percent)	28,230,840	45,667,314	168,965,874	334,752,462	141,693,948	43,111,530	
Recoveries (eventual, 56 percent)	35,930,160	58,122,036	215,047,476	426,048,588	180,337,752	54,869,220	

NOTE.—Italic indicates red figures.

Senator BULKLEY. Are you putting in the other table, showing the assessment of one-twelfth of 1 percent?
Mr. O'CONNOR. Yes; that should be in. That is in the bill.
Senator GLASS. It may be received.
(The table referred to is here printed in the record, in full, as follows:)

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	1921	1922	1923	1924	1925	1926	1927
Combined capital and surplus fund of Corporation as of Jan. 1	$325,000,000	$294,796,798	$312,249,552	$312,432,095	$297,693,350	$311,943,385	$292,563,412
Add:							
Assessment income (1/12 of 1 percent)	32,220,823	34,273,627	36,874,603	39,757,523	43,329,216	45,057,714	47,292,756
Investment earnings for year (3½ percent)	7,875,000	6,817,888	7,428,734	7,435,123	6,919,267	7,418,028	6,739,719
Recoveries from advances made	9,685,575	20,730,589	25,699,656	35,136,559	41,901,302	47,814,385	52,785,003
Total income	49,781,398	61,822,104	70,002,993	82,329,205	92,149,785	100,290,127	106,817,478
Less:							
Advances to pay insured deposits	77,484,600	41,869,350	67,320,450	94,567,950	75,399,750	117,170,100	89,698,050
Expense of operation	2,500,000	2,500,000	2,500,000	2,500,00	2,500,000	2,500,000	2,500,000
Total disbursements	79,984,600	44,369,350	69,820,450	97,067,950	77,899,750	119,670,100	92,198,050
Net income or loss	*30,203,202*	17,452,754	182,543	*14,738,745*	14,250,035	*19,379,973*	14,619,428
Combined capital and surplus fund of corporation as of Dec. 31	294,796,798	312,249,552	312,432,095	297,693,350	311,943,385	292,563,412	307,182,840
Less: Cash reserve	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000
Available investment funds	194,796,798	212,249,552	212,432,095	197,693,350	211,943,385	192,563,412	207,182,840
Bank suspensions—number	505	367	646	775	618	976	669
Total deposits	$172,188,000	$93,043,000	$149,601,000	$210,151,000	$167,555,000	$260,378,000	$199,329,000
Insured deposits (45 percent)	77,484,600	41,869,350	67,320,450	94,567,950	75,399,750	117,170,100	89,698,050
Losses (eventual, 44 percent)	34,093,224	18,422,514	29,620,998	41,609,898	33,175,890	51,554,900	39,467,142
Recoveries (eventual, 56 percent)	43,391,376	23,446,836	37,699,452	52,958,052	42,223,860	65,615,200	50,230,908

NOTE.—Italics indicate red figures.

A projection of hypothetical operating statements of a deposit insurance corporation by years for the period Jan. 1, 1921, to Mar. 15, 1933, predicated upon an initial combined capital and surplus fund of $325,000,000, and annual assessment rate of 1/12 of 1 percent of total deposits in active banks, a maximum insurance of $5,000, a liquidation period of 5 years, and the inclusion of liquidation operations to 1937 to give effect to total eventual recoveries upon all advances made—Continued

	1928	1929	1930	1931	1932	1933	1934 to 1937
Combined capital and surplus fund of Corporation as of Jan. 1	$307,182,840	$345,593,585	$344,361,765	$104,071,147	*$418,314,428*	*$457,786,977*	*$317,187,996*
Add:							
Assessment income (1/12 of 1 percent)	48,692,551	48,258,867	49,872,662	47,387,286	37,825,224	34,611,245	
Investment earnings for year (3½ percent)	7,251,399	8,646,959	8,563,847	173,675			
Recoveries from advances made	49,127,795	48,171,704	87,786,223	193,354,514	247,233,927	206,468,506	220,025,178
Total income	105,071,745	105,057,530	146,222,732	240,915,475	285,059,151	241,079,731	220,025,178
Less:							
Advances to pay insured deposits	64,161,000	103,789,350	384,013,350	760,801,050	322,031,700	97,980,750	
Expense of operation	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Total disbursements	66,661,000	106,289,350	386,513,350	763,301,050	324,531,700	100,480,750	2,500,000
Net income or loss [1]	38,410,745	*1,231,820*	*240,290,618*	*522,385,575*	*39,472,549*	140,958,981	217,525,178
Combined capital and surplus fund of corporation as of Dec. 31	345,593,585	344,361,765	104,071,147	*418,314,428*	*457,786,977*	*317,187,996*	*99,662,818*
Less: Cash reserve	100,000,000	100,000,000	100,000,000				
Available investment funds	245,593,585	244,361,765	4,071,147				
Bank suspensions.....number	499	659	1,352	2,294	1,456	462	
Total deposits	$142,580,000	$230,643,000	$853,363,000	$1,690,669,000	$715,626,000	$217,735,000	
Insured deposits (45 percent)	64,161,000	103,789,350	384,013,350	760,801,050	322,031,700	97,980,750	
Losses (eventual, 44 percent)	28,230,840	45,667,314	168,965,874	334,752,462	141,693,948	43,111,530	
Recoveries (eventual, 56 percent)	35,930,160	58,122,036	215,047,476	426,048,588	180,337,752	54,869,220	

[1] Italics indicate red figures.

Mr. O'CONNOR. And yesterday, Senator, I also stated that there were 11 national banks which had been closed since the banking holiday of 1933, and only 2 of those were members of the insurance fund. And I have prepared a break-down for the information of the committee showing just why those banks failed—embezzlement, and other reasons, the 13—and that is all the national banks that have failed since the banking holiday of 1933. And with the permission of the chairman and the committee I would like to put that into the record.

Senator GLASS. That may go into the record.

(Table and information regarding disposition of licensed national banks which failed following the banking holiday, is here printed in the record in full, as follows:)

Memorandum for the Comptroller.

Information regarding disposition or present status of *licensed* national banks which failed following the banking holiday:

Licensed banks closed with immediate appointment of receivers

Name of bank	Date of suspension	Date receiver appointed
Rushville, Ind.: American National Bank. Bank still in receivership. Dividends aggregating 80 percent have been paid to creditors. Estimated future dividends approximately 10 percent	Apr. 22, 1933	Apr. 25, 1933
Kingfisher, Okla.: First National Bank. Cause of failure: Defalcations. Bank still in receivership. Dividends aggregating 62½ percent paid to creditors. Estimated future dividends approximately 15 percent.	July 20, 1933	July 27, 1933
West, Tex.: National Bank of. Cause of failure: Defalcations. Returned to directors 11 a. m., Oct. 9, 1934, for purpose of consummating sale of assets to the State National Bank of West, Tex. Meeting of stockholders held and bank voted into voluntary liquidation. Creditors paid 100 percent. Final report on Oct. 9, 1934.	Oct. 30, 1933	Oct. 30, 1933
Lima, Mont.: First National Bank. Federal Deposit Insurance Corporation, receiver. Creditors paid in full by corporation.	July 19, 1934	July 19, 1934
Herndon, Va.: National Bank of. Cause of failure: Defalcations. Federal Deposit Insurance Corporation, receiver.	Jan. 10, 1935	Jan. 10, 1935

Licensed banks closed through subsequent revocation of licenses and conservators appointed final disposition indicated

Name of bank	Date of suspension and appointment of conservator	Date receiver appointed
Albuquerque, N. Mex.: First National Bank of. Cause of failure: Defalcations. License issued to First National Bank in Albuquerque to succeed First National Bank of Albuquerque, and conservator of latter bank authorized to return bank to its board of directors, effective Oct. 24, 1933. Creditors paid 100 percent.	Apr. 17, 1933	----------
Camden, Ark.: First National Bank. Cause of failure: Due to depreciation on large amounts Arkansas bonds, revenues on which were taken away by State law. 60 percent distribution made to creditors by Spokane Sale while in conservatorship. Estimated future dividends approximately 10 percent. Bank still in receivership.	May 24, 1933	Apr. 16, 1934
Battle Creek, Mich.: Old Merchants National Bank. Conservatorship terminated and bank returned to board of directors, effective 12 noon, June 9, 1934, for the purpose of entering into a contract of sale with the Security National Bank of Battle Creek, which bank was licensed and authorized to commence business on June 9, 1934. Creditors paid 65 percent.	June 13, 1933	----------
Boulder, Colo.: Boulder National Bank. 50 percent distribution to creditors through Spokane sale while in conservatorship. Estimated future dividends approximately 20 percent. Bank still in receivership.	July 12, 1933	Mar. 28, 1934

Licensed banks closed through subsequent revocation of licenses and conservators appointed final disposition indicated—Continued

Name of bank	Date of suspension and appointment of conservator	Date receiver appointed
San Antonio, Tex.: Commercial National Bank Cause of failure: Defalcations. Receivership terminated at 5 p. m., Oct. 16, 1934, and bank restored to solvency for purpose of completing reorganization plans and selling acceptable assets to Bexar County National Bank of San Antonio. Old bank voted into voluntary liquidation. Creditors paid 100 percent. Final report Oct. 16, 1934.	July 31, 1933	Jan. 31, 1934
Waverly, N. Y.: First National Bank 60-percent distribution paid to creditors by Spokane sale while bank in conservatorship. Second dividend of 15 percent paid by receiver. Estimated future dividends approximately 8 percent. Bank still in receivership.	Sept. 1, 1933	Oct. 24, 1933

Senator BULKLEY. Mr. Comptroller, what classification do your examiners report on loans?

Mr. O'CONNOR. We have three general classifications that the examiners classify the loans. The first is slow——

Senator BULKLEY (interposing). Now, this refers to all loans in all banks examined?

Mr. O'CONNOR. That is right, all national banks, Senator. The first classification is called the "slow loans," and that includes loans that are good, loans that are sound, but loans that could not be immediately liquidated but they are good and sound; and those are put in the slow column.

The next column is the doubtful column, and in that column is paper that the examiners say, "Well, it is not what I would call a sound loan, and yet there is no evidence at once that it is a loss; if business turns a little or some little thing happens in here, it is a good loan, but I will have to classify it as doubtful."

Senator GLASS. What does the examiner do in certain instances of that sort?

Mr. O'CONNOR. He puts it in the doubtful column.

Senator GLASS. I know, but what does he say to the bank officers?

Mr. O'CONNOR. In the doubtful column?

Senator GLASS. Yes.

Mr. O'CONNOR. He advises them to watch that loan until his next examination comes along, and to improve its condition, or get additional collateral, or get it in better shape.

Now, the loss column, the examiner finds just a straight loss, or the makers of the paper are bankrupt or people out of jobs entirely, or they just cannot pay, and he just calls it a loss and out they go.

Senator BULKLEY. And then you are required to write it off?

Mr. O'CONNOR. Yes; that is written off. And that is in the loss column.

Senator GLASS. I am asking you this question because I, at least, want to know whether the Comptroller's office is pursuing a different policy now from what was formerly pursued when the Comptroller of the Currency, some years ago, came before us and told us that if he would follow out the requirement of the law he would close one-half of the national banks of the country. If that was an accurate description of the situation it meant, of course, that the Comptroller's

office had not been doing its duty for a number of years if he permitted the banks to get into that sort of a situation.

Now you authorize examiners to report derelictions of more or less a gross nature and suspend bank officers who do not comply with the report of your examiners, do you not?

Mr. O'CONNOR. Yes; Senator, that is correct. And we made a survey for, I believe, the first time in the history of the office——

Senator COUZENS (interposing). Before you go into that, may I ask you if you can clear up this situation: There have been articles in the press from time to time that the examiners of the Comptroller's office have adopted a deflationary attitude with respect to loans; while the Reconstruction Finance Corporation was urging banks to make more loans to industry and the bankers claimed they were in difficulty between two governmental agencies, one resisting loans that might not be A-1, and the other agency of the Government was urging them to make them. Have you any knowledge as to that?

Mr. O'CONNOR. Yes, Senator. I am glad you asked that question. I want to answer it in two ways. First——

Senator GLASS (interposing). Well, include in your answer an answer to this question: Is it not your business under your oath of office to protect the public interest and to protect the depositors in banks, and to require banks to make good loans, rather than bad or doubtful loans?

Mr. O'CONNOR. There is no question at all, Senator, about that being the policy of the office and the law that we must follow.

Senator GLASS. Yes.

Mr. O'CONNOR. Now, to answer Senator Couzens' question more directly: Some criticism such as that appeared, and in every instance I have inquired and run down the criticism to find out whether or not our examiners had acted fairly in the classification of assets of loans. And I want to give one very clear illustration. The Mid-West Banking Magazine published an editorial and stated that one of my examiners had required the charging off of a loan of $65,000 that had a two million dollar trust fund as security back of it, and criticized him very severely. I immediately wrote the editor, and I told the editor that if I had an examiner in the field doing that sort of thing I would discharge him. The editor took the matter up with the bank. The bank declined to give the name of the examiner and declined to give the asset that was criticized; the editor declined to give the name of the bank, and yet they published that false statement all over the country. It just was not true.

Now, to follow it up further: We made a survey of every examiner's report to find out the percentage of loans that had been placed in the three classifications that I have just given to Senator Bulkley, and we examined 5,275 reports of national banks. And the total amount of loans in those banks was $7,740,596,000. The examiners placed 2.88 percent of those loans in the loss column and 4.19 percent in the doubtful column and 27.05 percent in the slow column. Now, the slow column, of course, is the one that there is the most discussion about.

Senator BULKLEY. Do you require them to set up reserves against the slow and doubtful columns?

Mr. O'CONNOR. No; not against the slow.

Senator BULKLEY. But against the doubtful you do?

Mr. O'CONNOR. Sometimes or a portion of it.

Now, with reference to the slow column, we cannot just permit the slow column to go unchallenged. In other words, we cannot permit a bank to get overloaded with slow paper, and still we cannot run the banks, and if the taxes are paid and the interest is paid, and the only objection is that it is slow, we are not going to attempt to tell the banker how he shall deal with that particular piece of paper, provided he is not overloaded with it. So, here is the policy our office has adopted and the advice to examiners with reference to the slow column.

The examiners when classifying loans as slow should state briefly the reasons for such classification, but should bear in mind that the responsibility for determining and taking such action as may be necessary to place such slow loans in proper bankable shape rests entirely with the bankers. The examiners, therefore, should refrain from instructing the bankers as to what course they should pursue with their customers whose paper is classified as slow.

It is sound and good, and the only question is, it is slow.

Now, what we want——

Senator GLASS (interposing). What would happen to a bank that is overloaded with slow paper if a run should occur?

Mr. O'CONNOR. We do not permit it to get overloaded with it, Senator. I was careful to state that. And that is the reason we require these examiners to state the reasons for this classification, so that that can be developed.

Now the report is that 27 percent, which is safe—I do not believe anybody can challenge the fact that with 27 percent of the paper slow, which does not mean that it cannot be rediscounted——

Senator GLASS (interposing). You do not permit the bank to be overloaded with slow paper?

Mr. O'CONNOR. We do not.

Senator GLASS. Because you know very well in the event of a disturbance and a run on a bank of that type, it would be obliged to close its doors.

Mr. O'CONNOR. That is correct, Senator.

Senator BULKLEY. Twenty-seven percent is the average for all banks?

Mr. O'CONNOR. Yes, sir.

Senator GLASS. National banks?

Senator BULKLEY. I mean national banks.

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. What is the maximum?

Mr. O'CONNOR. Of course, some run lower and some higher. I have not checked that, Senator.

Senator BULKLEY. What maximum do you consider dangerous?

Mr. O'CONNOR. Well, you cannot just put it on a percentage basis, Senator, for this reason—just say a percentage, because that will depend on the other assets of the bank. If the balance is all cash, you could have a much higher percentage of slow paper. If you have cash and Governments and other slow paper, that is a different situation. So you have to see the whole picutre, and you have to sit back and examine it and see, as the Senator says, whether in the case of a run it could take care of it. That is our problem.

Senator COUZENS. May I ask what you do with under-collateralized loans?

Mr. O'CONNOR. Yes.

Senator COUZENS. Do you attempt to say what you think are good and what bad because of undercollateralization?

Mr. O'CONNOR. Yes; we attempt to do that also.

Senator COUZENS. So there may be a loan for $100,000 which you say is undercollateralized, because 75 percent slow and 25 percent doubtful?

Mr. O'CONNOR. Yes, sir.

Senator COUZENS. You would add it up before you make your estimate?

Mr. O'CONNOR. Yes, sir.

Senator COUZENS. Now, have you covered all that you have to say in regard to title I, Mr. Comptroller?

Mr. O'CONNOR. Yes; I am through with title I.

Senator COUZENS. I would like to ask, before you leave that—and you may have answered this before, and if you have you may ignore it. When Mr. Crowley was before the committee, some time ago, the question was raised as to the authority he asked for his this bill, as I understand it, to close banks that were improperly conducted or were not good risks for the Federal Deposit Insurance Corporation; and I raised some question as to the method that was to be used by Mr. Crowley for the Federal Deposit Insurance Corporation. Have you commented on that phase of it in your testimony?

Mr. O'CONNOR. No; I have not, Senator.

Senator COUZENS. Have you any views in connection with it?

Mr. O'CONNOR. Yes, sir. The Federal Reserve Board and the Comptroller of the Currency, of course, have wide powers with reference to the operation and management of member banks and national banks. We find ourselves in the Federal Deposit Insurance Corporation without any power at all; none——

Senator COUZENS (interposing). In that connection, is it practicable or does the policy exist of consulting these other agencies that do have great power over the closing and conduct of the banks? In other words, what I am trying to get at is that you say the Federal Deposit Insurance Corporation lacks power.

Mr. O'CONNOR. Yes; it has none at all.

Senator COUZENS. Now what I want to ask you is, if you can ask the other agencies that do have power.

Mr. O'CONNOR. No; they have none, either.

Senator COUZENS. They have none?

Mr. O'CONNOR. Not over the nonmember banks, at all.

Senator COUZENS. I was speaking of the member banks, as well as nonmember banks.

Mr. O'CONNOR. Whether the Federal Deposit Insurance Corporation can exercise its power?

Senator COUZENS. Yes.

Mr. O'CONNOR. Oh, yes; we all three work in harmony, when we find anything wrong, and also the Reconstruction Finance Corporation, if they have got any interest in it—all three departments sit down together then, and if it is an insured bank the Federal Deposit Insurance Corporation try to work out a program for that bank.

Now we are in this position, Senator, with reference to the insured nonmember banks, as I stated: We have these rather broad powers over State member banks, and then we find this great number of banks, 7,500, approximately, of small nonmember State banks insured. We must pay their losses; we have the responsibility to their depositors to that extent, but without any direction for that bank. We can examine them and we can find practices that would be condemend by everyone, I assume, and then not be able to make a suggestion—we can make a suggestion, but they do not have to do anything with it at all.

Senator BANKHEAD. Can you withdraw the insurance?

Mr. O'CONNOR. No; we cannot, Senator. Now we are asking this power, that when we find that condition in a bank, for the Federal Deposit Insurance Corporation, that we notify the bank and point out the things that ought to be corrected in that bank and give the bank 120 days to do it. At the end of that period the bank has the right to come before the Board and explain why it has not done it, or show that it has attempted to do it or made some progress toward it. Then we ask the power to cancel the insurance on future deposits in that bank, but we cannot, of course, walk away from the liability that we have incurred of insuring the deposits that were there on the day that we cancel the insurance. And we carry that insurance for a period of 2 years, so the bank thereafter is permitted to go along and work itself out, if it can. That is all we are asking, and we think it is fair enough power to ask over them, and we are going to protect the depositors whom we have insured and whose premium is paid, for 2 years.

Senator BULKLEY. You are talking about what you would do if you got the power in the law.

Mr. O'CONNOR. That is true, Senator.

Senator BULKLEY. Where is that in the bill?

Mr. O'CONNOR. Page 13.

Senator COUZENS. Before you go to that, is there any power in the bill that you refer to for you to take it up with the State bank commissioner?

Mr. O'CONNOR. Yes, sir.

Senator COUZENS. Where is that?

Mr. O'CONNOR. I will give it to you (reading):

> Any insured bank (except a national member bank or State member bank) may, upon not less than ninety days' written notice to the Corporation, terminate its status as an insured bank. Wherever the board of directors shall find that an insured bank or its directors or trustees have continued unsafe or unsound practices in conducting the business of such bank or have knowingly or negligently permitted any of its officers or agents to violate repeatedly any provision of this section or of any regulation made thereunder, or of any law or regulation made pursuant to law to which the insured bank is subject, the board of directors shall first give to the Comptroller of the Currency in the case of a national bank or district bank, to the authority having supervision in case of a State bank, and also to the Federal Reserve Board in case of a State member bank, a statement of such violation by the bank for the purpose of securing a correction of such practices or conditions. Unless such correction shall be made within such period of time not exceeding one hundred and twenty days as the Comptroller of the Currency, the State authority, or Federal Reserve Board, as the case may be, shall require, the board of directors, if it shall determine to proceed further, shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, fixing a time and place for a hearing before the board of directors or before a person designated by it to conduct such

hearing, at which evidence may be produced, and upon such evidence the board of directors shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the board of directors shall find that any ground specified in such notice has been established, the board of directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The Corporation may publish notice of such termination and the bank shall give notice of termination to its depositors, in such manner and at such time as the board of directors may find necessary and may order for the protection of depositors. After termination of the insured status of any bank under the provisions of this paragraph, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals, shall continue for a period of two years to be insured and the bank shall continue to pay to the Corporation assessments as in the case of an insured bank for such period of two years from such termination, but no additions to any deposits or any new deposits shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall state with equal prominence that additions to deposits and new deposits made after the date of such termination, specifying such date, are not insured. Such bank shall in all other respects be subject to the duties and obligations of an insured bank for the period of two years from such termination and in the event of being closed on account of inability to meet the demands of its depositors within such period of two years, the Corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

I think, Senator, that covers the question.

Senator COUZENS. Now is there a provision by which a bank that is insured may withdraw from the insurance?

Mr. O'CONNOR. Yes, sir.

Senator COUZENS. You need not read it.

Senator BULKLEY. Would not that make it very difficult for a bank to get any new deposits?

Mr. O'CONNOR. I think it would, Senator.

Senator BULKLEY. And would it not very nearly compel the depositors whose insurance was retained, to close their accounts within 2 years?

Mr. O'CONNOR. Oh, yes; they would have to close them within the 2 years if unwilling to continue in an uninsured bank.

Senator BULKLEY. They would have to withdraw all that money, then?

Mr. O'CONNOR. Yes; within 2 years.

Senator BULKLEY. It would very nearly put an end to the bank, then?

Mr. O'CONNOR. Well, if the bank is in the condition that the Corporation finds it to be——

Senator BULKLEY (interposing). It ought to be ended?

Mr. O'CONNOR. It ought to be ended; it ought not to be in business and ought not to take deposits.

Senator BYRNES. Let me ask you a question. Succeeding the bank holiday, in my State, there were opened a number of depositaries. They accept deposits, but make no loans, and I understand that they are insured in the Federal Deposit Insurance Corporation. Now, under the provisions of the Bank Act of 1933, if they do not become members of the Federal Reserve System, what will be the effect upon those institutions? Will it put them out of business?

Mr. O'CONNOR. No; the only thing is, they would not have insurance, because the bill, as it now stands, provides that in order to retain

the benefit of insurance they must become members of the Federal Reserve System.

Senator BYRNES. What is the provision in the bill reported to the House?

Mr. O'CONNOR. They struck it out.

Senator BYRNES. Was that the reason that they struck it out, that they wanted to give such institutions the right to continue operations and to receive the benefits of the insurance fund?

Mr. O'CONNOR. Well, the House, Senator, made its report on the Banking Act of 1935——

Senator BYRNES (interposing). You do not know, then?

Mr. O'CONNOR (continuing). In considerable detail. I do not know whether they discussed that particular feature of it, or not.

Senator BYRNES. Were such institutions opened in many States merely for the purpose of receiving deposits?

Mr. O'CONNOR. I think your State is the only one, excepting Wisconsin. They amended the law and permitted the receiving of deposits at different stations, but those were branches of banks.

Judge Birdzell, do you know of any other State?

Mr. BIRDZELL. No; I do not think there is any other State, Senator. South Carolina is the only State, so far as we are aware, where cash depositaries are set up with a small capital and that function as banks. When the question of their eligibility for membership in the Federal Deposit Insurance Corporation temporary fund arose, the Corporation was doubtful as to their eligibility. The doubt, however, was resolved in favor of their membership. It seemed to the Corporation that there was very little reason why such institutions should seek insurance, in view of the contract rights of the depositors against the institution, among which is the right to share only in the investments which the depositary would make from any fund.

Senator BULKLEY. In other words, there was no promise made to him that he would get his money back at all?

Mr. BIRDZELL. No.

Senator BYRNES. Was it the hope on his part that, as a result of the insurance fund, he would get his money back?

Mr. BIRDZELL. Apparently these operating depositaries thought they could operate more successfully if they were insured.

Mr. O'CONNOR. I can answer your question now, Senator, with reference to the House attitude.

Senator BYRNES. I can take it up with you and get it later.

Mr. O'CONNOR. Let the record show that the House committee discussed it on page 3 of the majority report, and also on page 26 of the report.

Senator BULKLEY. Had you concluded what you were going to say about the request that you are making under title I?

Mr. O'CONNOR. Yes; Senator.

Mr. BIRDZELL. May I add one word? Our information is that a number of these cash depositories are intending to convert themselves into regular State banks.

Senator COUZENS. Are you going on to title III now, Mr. Comptroller?

Mr. O'CONNOR. I believe it would be well, for the information of the committee, in view of the figures that have been given, just to state the income of the corporation at this time, the Federal Deposit

Insurance Corporation. From our bond investment we have an annual income of $8,710,761.27. That is a daily income of $23,878.63.

Senator BULKLEY. Are those investments in Government bonds?

Mr. O'CONNOR. Yes; and we can only invest in Governments, under the law, Senator. I am glad you brought that out.

Senator COUZENS. Have you got some other income from the assets of banks whose deposits you have paid off?

Mr. O'CONNOR. Yes. We call it, really, recoveries. We have already 75 percent in one bank, and 49 percent in another, and 50 percent in another, in 3 of the banks of the total number of banks that have been closed, 15 banks in all.

Now, I am through with title I, Senator, unless you have some questions.

Senator BULKLEY. I do not think of anything more now.

Senator COUZENS. Before you start on the other title, may I ask you this: If you do not want to answer this, you do not need to. It appears from the low interest rate and the lack of opportunity for income in banks generally throughout the country, that they are having difficulty to make any money. Some are just getting by, some are in the red, and others make a small profit. Is that condition, if it prevails, going to affect the Federal Deposit Insurance Corporation materially?

Mr. O'CONNOR. Yes; of course, our banks, in order to be sound, must make profit, and, frankly, I look with considerable optimism to the future because of some of the benefits that the Banking Act of 1933 gave to the banks, and the most striking one is that by your act you eliminated the provision with reference to interest on demand deposits in national banks, and that saved the banks a very large sum of money.

Senator COUZENS. Have you an estimate of how much?

Mr. O'CONNOR. The total amount paid during the past 5 years, prior to the passage of the Bank Act of 1933 by member banks on demand deposits was $1,230,242,000, which was an average of $246,048,045 per annum. That was just for member banks.

Senator COUZENS. Have you estimated what that would have been in the calendar year 1934 if it had not been prohibited by the Banking Act of 1933?

Mr. O'CONNOR. Well, I would assume, Senator, that it would practically be the same as the average for the 5 years before.

Senator COUZENS. Well, no; because the deposits were much less. If you have not got it convenient, I would like to have, if you can compute it, what the interest would have been, or an estimate of what it would have been for the calendar year 1934 had the Banking Act of 1933 not prohibited the payment of interest.

Mr. O'CONNOR. Yes; we can get that.

Average demand deposits in all member banks calendar year 1934	$20, 566, 035, 000
Interest at 1.17 percent on average demand deposits in 1934	240, 623, 000

Senator COUZENS. But, in spite of that, I am still of the impression that with the investment rates low and the opportunities to lend money limited, that some of these banks are having, notwithstanding that elimination of interest, difficulty in getting by. Has that been your observation at all?

Mr. O'CONNOR. Oh, yes, Senator; there is no question about it. Their earning power has been greatly impaired since 1933.

Senator BULKLEY. Now, as for section 301, that is a new provision that was not in our omnibus bill last year. What was your experience that caused you to ask for this change in the law?

Mr. O'CONNOR. Well, the particular reason for that, Senator, is to permit the Reconstruction Finance Corporation not to come within the provision of a holding company, so that any wholly Government-owned corporation should be able to vote its stock and not have any of the inhibitions or viciousness that attach to other holding companies.

Senator BULKLEY. But the text goes a little farther than that. It says, "Any organization which, in the judgment of the Federal Reserve Board, is not engaged," and so forth. Have you any experience to base that on?

Mr. O'CONNOR. Yes; we have two or three, Senator. Here is one:

A corporation owning and operating large department stores in several cities in the United States owns the stock of a small member bank located on the premises of one of its stores, which bank is operated primarily for the convenience of its customers and employees.

An unincorporated labor union owns a majority of the stock of a member bank in New York City and a subsidiary organization of the labor union owns the stock of a member bank located in Chicago.

A corporation organized to hold real and personal property of a church owns or controls two member banks.

And a charitable foundation established for the purpose of aiding young men and women in obtaining an education owns the stock of a member bank.

Those are all illustrations.

Senator BULKLEY. Those are very good illustrations.

Now, there could be no discrimination in favor of those under the law.

Mr. O'CONNOR. No.

Senator BULKLEY. And the change you propose would permit the Federal Reserve Board to act in each specific case?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. And each case would have to be acted upon?

Mr. O'CONNOR. Yes, sir; by general regulation.

Senator COUZENS. That is, they would have to make the determination before they could vote?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. What is the significance of these words "as a business"?

Mr. O'CONNOR. That is which section?

Senator BULKLEY. Line 16, on page 51.

Mr. O'CONNOR. Well, that is just to distinguish the real holding company from the accidental affiliate. Those are not business, Senator; that is just to make that distinction.

Senator BULKLEY. Section 302 is as it was in the omnibus bill last year.

Mr. O'CONNOR. Yes. Senator, they are all the same in that bill as the Bulkley bill, except where we have indicated.

Senator BULKLEY. Section 303 seems a little broader than it was in last year's bill. You have included here, in lines 7, 8, and 9,

"or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities", and so forth.

Mr. O'CONNOR. Section 303 (a) makes it clear that the provisions of section 21 (a) (1) of the Banking Act of 1933, prohibiting dealers in securities from engaging in the business of taking deposits, does not prevent banking institutions from dealing in, underwriting, purchasing, and selling investment securities to the extent expressly permitted to national banks under the National Banking Act and does not prevent banking institutions from selling mortgages without recourse. It will be observed that national banks are limited in dealing in and underwriting securities to doing so as to Government obligations, general obligations of State or political subdivisions, obligations issued under authority of the Federal Farm Loan Act, by the Federal Home Loan Board, or the Home Owners' Loan Corporation.

Those should be included.

Senator BULKLEY. This proviso, beginning in line 12 is new matter that was not in last year's bill, permitting banks to sell without recourse obligations evidencing loans on real estate.

Mr. O'CONNOR. This section makes it clear that section 21 (a) (2) of the Banking Act of 1933 does not require that business institutions which accept deposits only from their own officers, agents, or employees need submit to examination and publication of reports of conditions.

Oh, you are still on the other section?

Senator BULKLEY. Yes; the proviso beginning in line 12 is new matter that was not in last year's bill.

Mr. O'CONNOR. Yes, Senator. The question has been raised, Senator, in our office that banks might not have the right to sell mortgages, and this does not add anything to it, except it clarifies the fact that it does not interfere with what has been construed to be their right to do.

Senator BULKLEY. In other words, mortgages would not be construed as an investment security?

Mr. O'CONNOR. That is correct.

Senator BULKLEY. You do not consider them an investment security now?

Mr. O'CONNOR. No.

Senator BULKLEY. But you feel that this should be put in to make it more clear?

Mr. O'CONNOR. Yes; that is right.

Senator BULKLEY. It really does not change the effect at all?

Mr. O'CONNOR. No, sir.

Senator COUZENS. When a bank sells any of these real-estate securities, do they continue the contingent liability of the mortgagor?

Mr. O'CONNOR. No.

Senator BULKLEY. Now, my recollection is that the amendment was offered on the floor to that effect when we had the omnibus bill up, and it was quite troublesome, and, as I remember, Senator Couzens was opposed to this amendment.

Senator COUZENS. This amendment?

Senator BULKLEY. It was my idea it was this amendment, or to this effect.

Mr. F. G. AWALT (Deputy Comptroller of the Currency). It was much broader, Senator.

Senator COUZENS. Can you state what it was?

Mr. AWALT. Well, technically, it might have opened up to the banks the right, whether they had it then, to deal in mortgage securities, whereas this amendment confines it to the rights that they may have under the present law.

Senator BULKLEY. To the rights they may have under the present law?

Mr. AWALT. Yes; the way it is worded now. This is new. You see, the objection under the 1933 Banking Act was as to—it was a criminal provision, and the Attorney General says that a bank that sells a mortgage security, he has doubts whether or not they violate the terms of the act, and they may be criminally prosecuted; and this amendment is intended purely to give them a right to sell a mortgage, if they have it, without being criminally prosecuted.

Senator BULKLEY. This, as I understand you, is to make clear that the law means what you think it is, anyhow.

Mr. AWALT. That is it.

Mr. O'CONNOR. That is it, Senator, exactly.

Senator BULKLEY. We will look up that debate and see whether there is anything further to be inquired about here.

Now, this subsection (b) here raises a considerable question, because in your memorandum you said that perhaps the whole subsection which is here proposed to be amended ought to be repealed. Do you know whether the House proposed, in the bill as reported, to repeal it?

Mr. O'CONNOR. They struck it out, Senator.

Senator BULKLEY. The House struck out the subsection?

Mr. O'CONNOR. Yes. That is the examination of private banks. And here is the situation with reference to it——

Senator BYRNES (interposing). You cannot do anything about an examination, can you?

Mr. O'CONNOR. That is it. The Federal Government has no power over State banking institutions. You require that the Comptroller shall examine these private State institutions. And one of the Members of the House asked me whether I had examined those banks and institutions, and I said "yes." He said, "What did you do with the reports?" I said, "I filed them." He said, "Is that all you did?" I said, "Yes, because Congress told me to examine them."

Senator BULKLEY. Is there no provision for the publication of the report?

Mr. O'CONNOR. It might be required.

Senator BUCKLEY. Is it required under existing law?

Mr. O'CONNOR. Yes, as to reports of condition. And we have two difficulties. First, that they advertise that they are being examined by the Federal Government, and we have not one bit of power to go in and correct a bad situation.

Senator BYRNES. They get the benefit of the advertisement that you are examining them, and you may find practices that you could correct if you had the power.

Mr. O'CONNOR. That is correct.

Senator BULKLEY. However, that provision was put in the law as a result of very considerable discussion and debate, and I think that

this discussion here ought to be continued with a little larger proportion of our membership present.

Senator BYRNES. I think so. It does seem that if it is to be continued we ought to make some provision for using the report of the examiner. If, as it now stands, the Comptroller is merely to file it and it accomplishes no purpose whatever, there is no reason for continuing it.

Senator BULKLEY. I must say that under the statement the Comptroller makes it does seem somewhat ridiculous, but at the time it was considered to have some importance.

Senator BYRNES. Yes; that impresses me. It was brought to my attention that the Comptroller did make a report, and nothing was done about it, and that the private bankers had the benefit of the advertising that they were examined by the United States Government. If he has no power I should not think he should have the responsibility.

Senator BULKLEY. If we should want some continuance of the supervision, would you recommend that there be a specific direction for publishing the reports, or do you think the whole thing is entirely impracticable?

Mr. O'CONNOR. I think it is, Senator, because the reports mean so little to the average person who goes into a bank and puts his money in there. You can publish a report, but readers do not understand it. It is so difficult to reach the people who are making these deposits, and who are dealing with these institutions. We have no power to close such banks or to compel them to do anything and, just as the Senator says, they advertise the advantage of being supervised by a Federal Government institution.

Senator BYRNES. And because they are not under a State institution, you cannot turn it over to a State official. There is nothing you can do but to file it.

Mr. O'CONNOR. That is all.

Senator BULKLEY. Your memorandum says you do not oppose the repeal of it. You really advocate the repeal of it, do you not?

Mr. O'CONNOR. Yes. It seems to me, Senator, that we ought to repeal it.

Senator BULKLEY (presiding). The committee will take a recess until Monday morning at 10:30 o'clock.

(Whereupon, at 12:05 p. m., the subcommittee recessed until Monday, Apr. 29, 1935, at 10:30 a. m.)

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BANKING ACT OF 1935

TUESDAY, APRIL 30, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Byrnes, and Townsend.

Senator GLASS. Proceed, Mr. Comptroller.

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY—Resumed

Mr. O'CONNOR. Are you going to take up title III?

Senator BULKLEY. Is that what you want to do?

Mr. O'CONNOR. There is a matter in title I that I would like to check up.

The Senate bill which is before us, S. 1715, on page 9, section 7, provides as follows [reading]:

> By striking out subsection (a) and inserting in lieu thereof the following:
> "(g) The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this section."

I have just read from the Senate bill; and the language that I have read is practically the rule followed by the Comptroller in chartering national banks.

Senator GLASS. You lay stress upon the requirement that the inquiry should be directed to the needs of the community, do you not?

Mr. O'CONNOR. Yes, Senator; that is one of the particular points that I would like to emphasize.

Senator GLASS. And you frequently refuse, as I know your predecessors have frequently refused, to charter a national bank in a community where the State banks met apparently all of the requirements of the banking business?

Mr. O'CONNOR. That is absolutely correct, Senator; and, in addition to that, not long ago a national bank made application for a branch. All branches of national banks, under the statute, must be approved by the Comptroller. We made the usual investigation

in this particular community, by our examiners, to determine whether or not we felt there was need in that community for more banking facilities, and we found that the State had chartered a State bank some months before in that particular community. Its deposits at the time of our investigation were around $250,000. The bank was owned locally in that community, and I declined to permit a national bank to establish a branch in competition with that State bank because there seemed to be no need for it in that community.

I was rather surprised some weeks later to learn that the State itself had chartered a branch of a State bank in competition with its own institution in that community. I wanted to enlarge your suggestion, Senator Glass, that we also apply the same rule as to branches.

Senator GLASS. I very distinctly recall the latest instance in my own State, when I think Mr. Awalt was acting Comptroller of the Currency, or it may have been Mr. Pole, that application was made for the establishment of a national bank in Lancaster County, Va., at Cape Charles City, I think, in the third richest county in the State; and Mr. Pole, or Mr. Awalt, as the case might be, declined to charter the bank because he held that the two State banks there were affording ample banking facilities to the community.

Pardon me for interrupting you. You may proceed.

Mr. O'CONNOR. The House bill, H. R. 7617, on page 11, section 7, provides as follows [reading]:

> By striking out subsection (g) and inserting in lieu thereof the following: "(g) The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the financial condition of the bank and the adequacy of its capital structure."

Frankly, gentlemen, I regard this as one of the most important provisions in title I of the suggested bill, and I consider the amendment in the proposal of the House as most dangerous.

Senator GLASS. You mean, in the bill, or in title I of the bill?

Mr. O'CONNOR. Title I of the bill. Let us consider it for a moment, because of its great importance. If the section as suggested by the House is adopted, rather than the one that is in the Senate bill, it will mean that every State-chartered institution that applies to the board for insurance, and which has an adequate capital, will have to be admitted, because the financial condition of the bank is not very important, for the reason that practically all banks in the future will be new banks, and the financial condition of the institution being new would naturally be sound. What will happen? Over the past 10 or 11 years 12,000 banks in this country have closed. With deposit insurance in effect it will be the highest invitation to those who want to speculate in this country in the establishment of banks, because the promoters can say to the stockholders, "Your bank will be insured, so why not invest in this institution? You cannot be hurt." Secondly, because of the general move in the different States, as well as by the Federal Government, to eliminate the double assessment liability.

Senator BULKLEY. But you do not guarantee stockholders.

Senator TOWNSEND. He is using the argument that would be made to prospective investors.

Mr. O'CONNOR. I am trying to make this point, Senator: Under the old system when a bank was organized there would have been much greater care on the part of the investor going into the bank when first he was confronted with a double liability, which has been removed by Congress from new banks, and also some of the States are following the suggestion of Congress in this respect, and, secondly, to say to the man investing, "This bank will not close because it will be insured." So a man is more likely to invest his money as a stockholder because of the fact that the bank will be insured.

Senator BULKLEY. I do not see how that protects the stockholders. It certainly protects the depositors.

Mr. O'CONNOR. If you prevent runs on banks it will protect the stockholders.

Senator BULKLEY. The theory is that there will not be a run, and therefore the bank would be protected? There is something in that, of course.

Mr. O'CONNOR. Yes; that is it. It is simply an invitation and an encouragement in every State in the Union, because all that they would have to do, gentlemen, would be to secure a State charter and then come down here and be insured. If we had 11,000 or 12,000 failures in the past 10 years, I do not know what the situation will be in the next 10 or 12 years if that provision is permitted to become law.

The Senate bill I believe is very sound. The Senate bill provides as follows [reading]:

The financial history and condition of the bank—

Of course, that only applies to the remaining banks that are not members of the fund—

the adequacy of its capital structure, its future earnings prospects—

And we make a careful investigation of that in chartering a national bank—

the general character of its management—

And that is very important. The Comptroller's office cooperates with the Federal Reserve Board in a very careful check-up of the character and kind of men that are coming into the new banks. But particularly this section in the Senate bill:

the convenience and needs of the communtiy to be served by the bank.

To prevent, if we can, over-banking this country. I consider it of such importance, gentlemen, that I wanted particularly to call your attention to it this morning; and I thank the Senator for giving me an opportunity to point it out.

Senator GLASS. Mr. Comptroller, conceding that that is very important, do you think it more important than the provision in the existing law requiring all insured banks after July 1, 1937, to become members of the Federal Reserve System and comply with the law that applies to member banks and which appears to have been stricken out by the House bill? Do you think that is of any less importance? What do you think would happen to the insurance fund if that requirement should be expunged from the law? You are a member of the Insurance Deposit Board, are you not?

Mr. O'CONNOR. Yes, Senator; I am. My view is this. The ultimate aim of the legislation of 1933 was to establish one system in this country. The framers of the act had no objection to postponing the date of qualification to a future date when recovery was reached in the country, as well as giving an opportunity to banks to qualify for membership in the Federal Reserve System. That is a consummation devoutly to be wished. We cannot be unfair to these banks, and we must permit a reasonable time to elapse for the banks to be able to so rearrange their internal affairs, their capital structure, if they can, so as to qualify for membership in the Federal Reserve System. I believe we have made a step toward that, Senator, in title I, if it is adoped, permitting the Federal Insurance Corporation to purchase the assets of going banks, so that we can create mergers or bring about mergers all over the country, getting these banks in shape to qualify for membership in the Federal Reserve System. I think that was a wise provision of Congress, because I believe it would have been manifestly unfair on the part of Congress with respect to small banks to practically sign their death warrant because they could not qualify for membership in the Federal Reserve System; and in view of that, Congress wisely provided that it would give them an opportunity, a certain length of time in which to qualify for membership. It is the policy of the Federal Government as expressed in that law that at some future date all banks in the United States must become members of the Federal Reserve System.

Senator GLASS. As a matter of fact, in your capital fund there is $150,000,000 contributed by the Federal Government and also a fund contributed from the surplus funds of the Federal Reserve banks. Is there any reason why the Federal Reserve banks should contribute $150,000,000 toward insuring deposits of nonmember banks which refuse, after a period of 4 years, to become members of the Federal Reserve System?

Mr. O'CONNOR. My understanding is that the banks that are members of the insurance fund will all pay their proportionate share of the levy that is made by the Board.

Senator GLASS. But nonmember banks do not pay any part of the $150,000,000 taken from the surplus of the Reserve banks, do they?

Mr. O'CONNOR. No; but that is in lieu of their assessment, Senator. Is not that in lieu of their first assessment?

Senator TOWNSEND. You mean out of the $150,000,000?

Mr. O'CONNOR. Yes.

Senator TOWNSEND. I did not understand that.

Senator BULKLEY. They have to pay their assessment besides that, do they not?

Mr. O'CONNOR. But that was not out of the banks. That was taken out of the surplus of the Federal Reserve, was it not?

Senator GLASS. That is what I am saying. It was taken out of the surplus of the Federal Reserve, and it was put in the surplus of the Federal Reserve by member banks.

Mr. O'CONNOR. That is true.

Senator GLASS. That is what I am talking about.

Mr. O'CONNOR. I suggested some time ago that that be repaid.

Senator GLASS. I do not think it ought to be repaid. I do not think the $150,000,000 taken out of the Treasury, which never ought to have been in the Treasury, mulcted by law—there is such a thing as legal robbery, you know—ought to be repaid.

Mr. O'CONNOR. There is a very simple way to do it.

Senator GLASS. I just wanted to know what your opinion was of the proposition to relieve these banks, because I very distinctly recall—and I do not disclose any secret in saying so—that the President of the United States and the then Secretary of the Treasury, Mr. Woodin, brought acquiescence in the insurance provision of the bill only upon the ground that it would seem to bring about in what most people regarded as a constitutional way an approximately unified banking system.

Mr. O'CONNOR. The Federal Reserve System has been repaid that money. The money that they put in has been repaid them by the Treasury. The Treasury now owns the stock——

Senator GLASS. Owns what stock?

Mr. O'CONNOR. The money that the Federal Reserve Board put in.

Senator GLASS. The Federal Reserve Board has not been repaid.

Mr. O'CONNOR. The Treasury purchased that stock.

Senator GLASS. The Treasury put up $150,000,000 of its own.

Mr. O'CONNOR. And in addition to that it purchased the stock of the Federal Reserve banks.

Senator GLASS. They took $150,000,000 of the surplus of the Federal Reserve banks.

Mr. O'CONNOR. And they bought that stock and repaid it.

Senator BULKLEY. I did not know that. By what authority was it repaid?

Senator GLASS. It never was intended to be repaid.

Senator BULKLEY. But the Comptroller says it was. How was the authority given to repay that?

Mr. O'CONNOR. They bought that stock.

Senator BULKLEY. Out of what?

Mr. O'CONNOR. Treasury funds.

Senator BULKLEY. Under what authorization? Was that some of the relief money?

Mr. O'CONNOR. No; that is not relief money.

Mr. WOOD. I understand that under the industrial-loan bill last year it was provided that the Treasury would make an advance to the Federal Reserve banks in an amount equal to the amount that they had subscribed for stock in the Federal Deposit Insurance Corporation.

Senator GLASS. That was for a different purpose entirely.

Senator BULKLEY. It is very different from repurchasing the stock, too. If they made an advance of the same amount, it is only the amount that happens to be the same. It is not a repurchase of the stock.

Senator GLASS. It was to make direct loans to industry.

Senator BULKLEY. It does not constitute a purchase of the stock at all, as I understand it.

Mr. O'CONNOR. Let us read the section——

Senator GLASS. It was to make a contribution for direct loans to industry.

Mr. O'CONNOR. That is right.

Mr. BIRDZELL. The capital status of the Corporation has not been affected at all. We have $150,000,000 subscription; we have $139,000,000, in round numbers, from the surplus of the Federal Reserve banks for which stock has been issued, and it has not been altered a particle.

Senator GLASS. That was made the basis of the contribution of the Government to industry.

Senator BULKLEY. Was it not an advancement for another purpose than repayment of this amount?

Mr. WOOD. Yes. Our Corporation has not repaid any of that.

Mr. O'CONNOR. May I read the section? This is document no. 417, relating to direct loans for Federal Reserve banks [reading]:

In order to enable the Federal Reserve banks to make loans, discounts, advances, purchases, and commitments provided for in this section, the Secretary of the Treasury, upon the date this section takes effect, is authorized, under such rules and regulations as he shall prescribe, to pay each Federal Reserve bank not to exceed such portion of the sum of $139,299,557 as may be represented by the par value of the holdings of each Federal Reserve bank, all Federal Deposit Insurance Corporation stock upon the execution by each Federal Reserve bank of its agreement to be endorsed on the certificate of such stock, to hold such stock unencumbered and to pay to the United States all dividends, all payments on liquidation, and all other proceeds of such stock for which dividend payments and proceeds the United States shall be secured by such stock itself up to the total amount paid to each Federal Reserve bank by the Secretary of the Treasury under this section. Each Federal Reserve bank shall agree that in the event such dividend payments and other proceeds in any calendar year do not aggregate 2 percent of the total payment made by the Secretary of the Treasury under this section, it will pay to the United States in such year such further amount, if any, up to 2 percent of the said total payment as thereby covered by the net earnings of the bank for that year derived from the use of the sum so paid by the Secretary of the Treasury, and that for such amount so due the United States shall have a first claim against such earnings, and, further, that it will continue such payments until final liquidation of said stock by the Federal Deposit Insurance Corporation. The sum so paid to each Federal Reserve bank by the Secretary of the Treasury shall become a part of the surplus fund of such Federal Reserve bank within the meaning of this section. All amounts required to be expended by the Secretary of the Treasury in order to carry out the provisions of this section shall be paid out of the miscellaneous receipts of the Treasury created by the increment resulting from the reduction of the weight of the gold dollar under the President's proclamation of January 31, 1934; and there is hereby appropriated out of such receipts such sum as shall be required for such purposes.

That is what I had in mind.

Senator GLASS. We are entirely familiar with that. That was simply the basis for an additional contribution by the Treasury.

Senator TOWNSEND. Has the Treasury paid the Federal Reserve banks this money?

Mr. O'CONNOR. My recollection is, Senator Townsend, that they have. Whether it has been fully paid or not I do not know. I can look it up and let you know.

Senator TOWNSEND. Your first assertion, then, was correct?

Mr. O'CONNOR. That is what I had in mind.

Senator BULKLEY. It is rather a peculiar transaction. It looks different to me, however, from a purchase of the stock.

Senator TOWNSEND. They have received the money from the Treasury.

Senator BULKLEY. Yes; but not by way of purchase of the stock.

Senator TOWNSEND. It may be or may not be a purchase.

Senator BULKLEY. It is a most peculiar transaction.

Senator TOWNSEND. It certainly is.

Senator BYRNES. I think we should ask the Comptroller if he wants, after looking it up, to make a statement in the record as to what is the fact.

Senator BULKLEY. That would be very satisfactory; but I do not think it is very pertinent to what is before us.

Did you have something else to say?

Mr. O'CONNOR. Not on that section, Senator.

Senator BULKLEY. Do you want to go on with title III now?

Mr. O'CONNOR. Yes, senator. Section 304, page 53 of the bill, was where we left off.

Senator BULKLEY. That provides for eliminating double liability with respect to shares issued prior to June 17, 1933, by national banking associations. Have you considered whether we could in fairness to creditors of banks eliminate the liability?

Mr. O'CONNOR. I have given that rather careful consideration, Senator, and in my opinion you could not constitutionally destroy the rights that exist now between the debtors and creditors of banks. In other words, when a depositor places his money in a bank at the present time, with double liability on the stock, that becomes a part of his contract with the bank.

Senator BULKLEY. He is presumed to rely on only the security that the law gives?

Mr. O'CONNOR. That is correct. That is very well stated. Now, therefore, inasmuch as Congress has provided that as to new charters the double liability is eliminated, it would seem only fair to make provision at a convenient time in the future for the elimination of double liability on existing banks, and particularly because at the present time we have national banks with two kinds of stock, stock that has a double liability and new stock issued by the same bank that does not have a double liability.

Senator BULKLEY. I can see the confusion of it and the desirability of getting it ironed out, but I am thinking about the question of wiping out an obligation that actually exists in favor of existing creditors.

Mr. O'CONNOR. We do not go that far, Senator, because we provide here that this double liability shall be eliminated on July 1, 1937, and we feel that if the law is passed now with presumptive notice to all creditors that within that time they will all have had notice of the passage of the act, it will therefore not be subject to the constitutional objection. That is my argument on it. I believe that there is not anything more distressing than to call for stock assessments after a bank has closed, because usually it is the stockholders that have suffered greatly by the closing of the bank, and secondly, it is usually in a period when they are less able to respond to double liability, and the further fact that we have collected approximately 49 percent of the stock liability. I have suggested to this committee and to Congress that we should not weaken the financial structure of our banks too greatly. Just as soon as you take away this double liability we must concede that we have greatly weakened the structure of our national banks. So therefore I have

suggested that the national banks shall be required to set aside out of their profits one-tenth each year until their surplus equals their capital. In other words, it will put into the bank this additional sum, rather than to attempt to collect afterward.

Senator BULKLEY. That provision about adding surplus is in section 314, is it not?

Mr. O'CONNOR. Yes, sir. The committee on that basis will be interested to know that in national banks we have a capital structure as of December 31, 1934, of $1,786,409,000.

Senator TOWNSEND. Do you mind an interruption there?

Mr. O'CONNOR. Certainly not, Senator.

Senator TOWNSEND. What percentage of the double liability assessment has been collected?

Mr. O'CONNOR. About 49 percent. The surplus in our national banks as of December 31 was $837,887,000, or, roughly, nearly one-half. Undivided profits amounted to $261,491,000. Of course, some banks have tremendous reserves and surplus. I have one bank in mind that has a capital of a million and a half and a surplus of 70 millions, and undivided profits of about a million and a half. I am just illustrating the great differences and gradations of banks, because you can hardly think off-hand of a bank that has a million and a half capital with 70 millions surplus.

May I further state, with reference to the constitutional objection that you are interested in, Senator Bulkley, that the House discussed that feature of it, and on page 60 of the House bill they inserted this provision to which we had no objection [reading]:

SEC. 304. Section 22 of the Banking Act of 1933, as amended, is amended by adding at the end thereof the following sentence: "Such additional liability shall cease on July 1, 1937, with respect to all shares issued by any association which shall be transacting the business of banking on July 1, 1937: *Provided*, That not less than six months prior to such date, such association shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such association is located, and if no newspaper is published in such city, town, or county, then in a newspaper of general circulation therein. If the association fail to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six months subsequent to publication, in the manner above provided."

Senator BYRNES. Let me ask you a question about that. If a bank becomes insolvent under the existing law, the depositor has the right to participate in any amounts that may be recovered from stock liability; that is right, is it not?

Mr. O'CONNOR. That is right.

Senator BYRNES. Under the insurance fund we have attempted to take care of that, so that if a bank becomes insolvent the depositors will receive payment from the insurance fund?

Senator TOWNSEND. Up to $5,000.

Senator BYRNES. Up to $5,000. Then what you have in mind is that while this insurance goes to the depositors, there shall be this additional fund added to surplus in order to protect depositors over $5,000, because the depositor who has no more than $5,000 is assured of payment out of the fund?

Mr. O'CONNOR. You just carry that one step further. It applies to the $5,000, too, because you have to keep in mind the fact the Federal Deposit Insurance——

Senator BYRNES. It is subrogated to the rights of the depositors against the stockholders?

Mr. O'CONNOR. Yes.

Senator BYRNES. Suppose you repealed it as to stockholders' liability, then there is no subrogation of the insurance fund. The depositor will have a remedy up to $5,000?

Mr. O'CONNOR. That is correct.

Senator BYRNES. What you are seeking to do, then, is to protect the depositors whose deposits are in excess of $5,000, by adding to the surplus and thereby improving the capital structure. Is that it?

Senator TOWNSEND. If you repeal the law you increase the hazard of the F. D. I. C., of course.

Senator BYRNES. If the Senator's statement is correct, the F. D. I. C. would be in a better situation, because the structure of the bank would be improved.

Mr. O'CONNOR. That is exactly correct, Senator.

Senator BULKLEY. Have you finished with section 304, Mr. O'Connor?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. Section 305 amends the Banking Act of 1933 in a very peculiar way by amending an amendatory clause. What is the idea of going around the bush in that way?

Mr. AWALT. It is just a simple way to do it.

Senator BULKLEY. Do you call that a simple way?

Mr. AWALT. Much simpler than the other way, Senator.

Mr. O'CONNOR. I suppose that sometimes the longest way round is the shortest way home. They have advised me that this is the simplest way to accomplish it.

Mr. AWALT. It is purely a question of draftsmanship.

Senator BULKLEY. I think the merit of the section is very easy to understand.

As to section 306, Mr. O'Connor, do you wish to give a little more explanation of that than is contained in the statement?

Mr. O'CONNOR. Yes, Senator. This is recommended by the Federal Reserve Board and also by myself. The burden upon the Board of investigating and examining each individual permit—thousands of them—has become so great that it is practically impossible for the Board to properly carry it out, but under the present law it must be done individually. The Board would like the authority to prescribe general regulations and then to be able to grant permits, if they come within those general regulations. We feel that this amendment will accomplish that.

Senator BULKLEY. Can you state just what happens under the existing law and how it would be changed by this amendment?

Mr. O'CONNOR. At the present time we have a complete summary of the relationship between the officers, directors, and employees of the banks and the security companies, and then each individual name comes up and he is investigated; whereas, if we could prescribe general regulations, general questions to each one of these individuals, as soon as it was looked over by one of the staff, he could see whether there was any possible conflict with the provisions of the act or the intent of Congress, and we would just pass them instead of going into each one individually. The Board would not have to go into

each case individually. We would just pass them because they had complied.

Senator BULKLEY. Are there many such cases to be passed on?

Mr. O'CONNOR. Oh, a great many, Senator.

Senator BULKLEY. How does it run in figures?

Mr. O'CONNOR. I have not the figures so much in mind as I have a stack of instruments in front of us on the table in the board room.

Senator BULKLEY. And each one at present has to have a separate resolution of the Board?

Mr. O'CONNOR. Yes.

Senator BULKLEY. And there are so many that the Board cannot physically consider them?

Mr. O'CONNOR. It is very difficult to do it. It is practically an impossible burden on the Board.

Senator BULKLEY. This section, as I understand it, does another very important thing. Do you want to discuss that?

Mr. O'CONNOR. Yes. The section would revise section 32 of the Banking Act of 1933, which prohibits interlocking relations between member banks and securities companies, so as to extend the provisions thereof to employees as well as officers and directors, and so as to include individuals engaged in the securities business as well as officers, directors, and managers of organizations connected with such business. The description of this type of business can be revised so as to meet the other provisions of the Banking Act of 1933. The prohibition against correspondent relationships between member banks and securities companies would be eliminated. Whereas the existing law authorizes the Federal Reserve Board to make exceptions by granting permits in individual cases, the revised section would authorize the Board to make exceptions only by general regulations dealing with limited classes of cases, when in the judgment of the Board such relationship would not unduly influence the investment policies of such member banks or the advice they give their customers regarding investments.

Senator BULKLEY. You are reading from the House report?

Mr. O'CONNOR. Yes, sir; on the Banking Act of 1935, page 17.

Senator BULKLEY. I do not see that there is anything in this section now to prohibit correspondent bank relationships at all. Do you not simply eliminate that prohibition altogether?

Mr. O'CONNOR. That is right.

Senator BULKLEY. It is not a question, then, of licensing under general regulations?

Mr. O'CONNOR. Not that part of it.

Senator BULKLEY. It is simply pitched out?

Mr. O'CONNOR. That part goes out.

Senator BULKLEY. What was your thought in that?

Mr. O'CONNOR. It is the judgment of the Board, Senator, that there is no abuse there; or, if there was any abuse, the attention of Congress or the Board had—

Senator BULKLEY. You think that that was just an ill-advised provision of the law in the first place, do you?

Mr. O'CONNOR. Well, from the way it worked out practically, that was the result. I do not know that it was ill-advised, but that is the way it worked out.

Senator BULKLEY. Let us go on with section 307.

Mr. O'CONNOR. Section 307 is largely the same as was in the bill, Senator, a year ago, with some additions. It makes it clear that section 16 of the Banking Act of 1933 was not intended to prohibit national banks or member banks from buying or selling stock solely for the account of their customers and as accommodation thereto and not for their own account. It is extremely important, particularly in communities remote from financial centers, and since there is involved no investment by the bank of its own funds, no objection can be seen thereto. The amendment further limits national banks in purchasing investment securities for their own account to the purchase of same in an amount as to any one issue limited to 10 percent of the bank's unimpaired capital and surplus. The present law permits such investment in any one issue to an amount equal to 15 percent of the unimpaired capital and 25 percent of the surplus, except where the total issue does not exceed $100,000 and does not exceed 50 percent of the capital of the association.

Senator BULKLEY. I notice on page 54 you suggest striking out the word "investment" in the phrase "investment securities." Is there any significance in that?

Mr. O'CONNOR. Customers might want to buy something besides investment securities, and they would be prohibited from buying even for their customers securities other than investment securities.

Senator BULKLEY. I thought there was a prohibition against buying investment securities. I see no objection to eliminating the word.

Senator GLASS. There is a distinction between securities and investment securities.

Mr. O'CONNOR. Yes; a very wide distinction.

Senator GLASS. As a matter of fact, most of the things that are gambled on on the stock exchange are securities and not investment securities.

Senator BULKLEY. However, if you do eliminate it there, you should also eliminate it at the top of page 55, should you not?

Mr. AWALT. No, sir; because that is where the bank is buying for its own account.

Senator BULKLEY. That was intended to mean a different thing there, was it?

Mr. AWALT. Yes, sir.

Mr. O'CONNOR. Senator Bulkley, at the end of section 307, which we are discussing, we are suggesting adding to the end of the sentence the words "except that this limitation shall not require any association to dispose of any securities lawfully held by it on the date of the enactment of the Banking Act of 1935."

In other words, we do not want them to dump their securities on the market.

Senator BULKLEY. That is quite correct; and you have improved that sentence by inserting that proviso. That is a very good technical correction. But it seems to me that the sentence is still in some difficulty, because it says—

> But in no event shall the total amount of the investment securities of any one obligor or maker, purchased after this section, as amended, takes effect and held by the association for its own account, exceed at any time 10 percent of its capital stock—

And so forth.

Does that word "its" refer to the association?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. Did we not have some percentage of the proportion of the obligation——

Mr. O'CONNOR. Except where the total issued does not exceed $100,000.

Senator BULKLEY. Where are you reading from now?

Mr. O'CONNOR. The present law.

Senator BULKLEY. That remains unchanged?

Mr. O'CONNOR. No.

Senator BULKLEY. You are sure that this does not have the effect of striking that out?

Mr. O'CONNOR. I will check it in a second. That is the present law, Senator. The present law provides for an amount equal to 15 percent of the unimpaired capital of the association, 25 percent of its surplus except where the total issued does not exceed $100,000 and does not exceed 50 percent of the capital of the association. That is in the present law.

Senator BULKLEY. Is that in section 5136?

Mr. O'CONNOR. It is cut out.

Senator BULKLEY. I still think you are taking that out.

Mr. O'CONNOR. It is the present law that we are eliminating.

Senator BULKLEY. You just said you did not intend to eliminate it.

Mr. O'CONNOR. I meant, we are eliminating that section of it in view of the suggestion we make here as to the limitation of investments.

Mr. AWALT. We are tightening up on the law. Instead of leaving it 15 to 25 percent, as it was before, we are tightening it down to 10 percent of the capital and surplus.

Senator BULKLEY. And in view of that, you think you do not need any limitation with respect to what proportion it may be of the obligation of the obligor?

Mr. AWALT. No; we do not need that.

Senator BULKLEY. So that you are intending to eliminate that restriction?

Mr. AWALT. Yes, sir.

Senator BULKLEY. What is the next?

Mr. O'CONNOR. Section 307 (b). This section restates in clearer form the existing prohibition against national banks purchasing stock for their own account.

Senator GLASS. What do you do with that?

Mr. O'CONNOR. We just make it clear, Senator. It is a question of rewording it.

Senator GLASS. Sometimes people reword a thing and emasculate the meaning of it.

Senator BULKLEY. Is there any significance in using the word "hereinafter" instead of "herein"? The word "hereinafter" appears in the existing law, but in the bill that we proposed last year we changed it to "herein." My recollection is that it was for some good purpose, but I cannot remember now what it was.

Mr. O'CONNOR. We see no objection to it at all. I do not recall the purpose either, but that will be satisfactory.

Senator BULKLEY. The only change that you propose in the existing law is the insertion of these words "for its own account" in lines 11 and 12? Is that right?

Mr. O'CONNOR. I have not the section before me, Senator, but it is very easy to check it. It is only one sentence. Yes; "for its own account."

Senator GLASS. That is what it was intended to mean?

Mr. O'CONNOR. Yes, sir.

Senator BULKLEY. I think that is a clarification of the law. I think that is good. What is the next one?

Mr. O'CONNOR. Section 308, Senator. This is a new section which was not in your bill last year. It enacts into law present requirements of the Comptroller's office as a matter of policy that newly organized national banks have a paid-in surplus equal to 20 percent of capital before being authorized to do business, which requirements may be waived where necessary in connection with a State bank converting into a national bank. Whenever we charter a national bank we require not only the capital that is required under the statute, because of the population, and so forth, of a city—and as you know, it varies—but we also require a 20-percent surplus which we have no right to require. We are just asking for that authorization in the statute because we think it ought to be there. For the first 6 months that a bank operates it has got rent, salaries, and expenses with no earnings, practically; and we feel that there ought to be a surplus in there so that the capital remains unimpaired. We are asking Congress to affirm the policy that we have adopted for many years in the Comptroller's office, which we think is sound.

Senator BULKLEY. Have you made no exceptions to it?

Mr. O'CONNOR. No, sir.

Senator TOWNSEND. What is your reason for exempting that requirement in converted State banks?

Mr. O'CONNOR. Because if the State bank has a sound capital, Senator, and it is in good shape otherwise, and it is an operating bank and it can be determined, the Comptroller can look into it and see whether or not it should be permitted to convert. Leave that to the Comptroller, but do not require him, in addition to the capital which might be far in excess of their actual needs, if their investments are in good shape, to say, "You must have 20 percent also."

Senator BULKLEY. Section 309?

Mr. O'CONNOR. That eliminates any possibility of section 18 of the Banking Act of 1933 being construed as preventing corporations other than a bank from conditioning transfer of their shares on the simultaneous transfer of shares of bank stock, but preserving the unimpeded free and unconditional transfer of bank stock.

Senator BULKLEY. I wish you would explain that. It seems to me that we prohibit a thing and then say that if you want to do it backward you can go ahead and do it.

Mr. O'CONNOR. The Glass report on the Banking Act of 1933, page 16, section 18, provides for separating the certificates representing ownership in national banks and ownership in the affiliates, other than member banks or existing corporations engaged solely in holding the bank premises of the affiliated national bank, so that in the future they will not be written upon a single certificate of ownership.

This corresponds to the provisions contained in section 5, which is applicable to State member banks.

Mr. AWALT. The question arose, due to the language of the section, whether or not it went further than that. But what we are trying to do is to bring it back just to accomplish this particular thing.

As I understand it, what this report of the Senator Glass Committee was trying to do was to hit, for instance, the National City Bank and the National City Co., where the stock of the company was trusteed and was evidenced on the back of the National City Bank certificate. We have interpreted that section to mean exactly that—that you cannot have that on the back of the certificate of any sort of a corporation; but some people claim it might go further than that, so that where you have an irrevocable trust which is evidenced in some cases by companies that are not knocked out under the affiliate section that company would have to be dissolved in addition to having the name taken off of the certificate. We had one case in Chicago something like that. Have I made it clear?

Senator BULKLEY. No; I really do not understand it.

Mr. O'CONNOR. Let Mr. McGrath try it.

Mr. MCGRATH. Some of them have construed this section as being another provision requiring divorcement of an affiliate. In section 20 of the Banking Act of 1933 it is provided that certain types of affiliates are to be divorced from a bank. That is the divorcement section. This section is thought to be limited, as Mr. Awalt said, to taking the provisions off the stock certificates when full compliance is had by taking them off; but some say that since it provides that no stock of another corporation can be conditioned on the transfer of bank stock, the mere taking it off of the certificate is insufficient.

Senator BULKLEY. That is what I would think, myself.

Mr. MCGRATH. That is all right if it is an objectionable type of affiliate, but we have a case in Chicago where the bank has transferred charged off real estate and other assets to a corporation, the stock of which corporation is trusteed for the benefit of the shareholders of the bank. It is very desirable that the bank should hold that close control over the charged-off real estate. If you are going to require them to break up that trust agreement, then you would permit a bank shareholder gradually to sell his interest in that corporation, and in the course of time we would not have any relationship whatsoever between the bank and that affiliated corporation. But it is a desirable relationship to maintain.

We had another case in the South where a national bank had an interest in State banks in this way. The stock of the State banks was trusteed for the benefit of the shareholders of the national bank. They want to continue that relationship because there is a branch banking law being passed in that State, and they want to convert those State banks into branches of the national bank.

Senator BULKLEY. What is the significance of trusteeing it for the benefit of the shareholders? Does that simply take it out from under the rights of creditors of the bank?

Mr. MCGRATH. Well, in a sense it does.

Senator BULKLEY. What is the advantage of that relationship? Why should it not simply be owned by the bank?

Mr. McGRATH. The bank cannot own the stock itself. It is prohibited from owning the stock. A national bank can only own stock for a debt previously contracted.

Senator BULKLEY. I thought you said this was for a debt previously contracted.

Mr. McGRATH. No; this would be a case where a corporation has been organized to take over and liquidate bad assets of the bank, to get them out of the bank entirely.

Senator BULKLEY. That relates to debts previously contracted.

Mr. McGRATH. No; because that corporation does not owe the bank any debt.

Senator BULKLEY. But the transaction relates to dealing with debts that are owed to the bank.

Mr. McGRATH. That is true; but it is not a preexisting debt. It is a debt that it created simultaneously with the issuance of stock. In other words, the stock is issued in payment for the assets; and that would be the same thing as going out and buying stock as an initial transaction.

Senator BULKLEY. The bank in that case does not pay anything for it, does it?

Mr. McGRATH. It transfers the assets to the other corporation.

Senator BULKLEY. Does it not simply take it as the measure of liquidating a debt which was previously owed to the bank?

Mr. McGRATH. A debt of another party to the bank.

Senator BULKLEY. A party which is purely fictitious. It is set up for the purpose of liquidation, is it not?

Mr. McGRATH. That is true; but the transaction is with the bank——

Senator BULKLEY. I cannot see any advantage to the voluntary creation of a needless legal complication. Unless the purpose of it is to take that asset out so that it does not have to respond to the creditors of the bank, I do not see that it does anything. I do not think that is a good purpose. I should think that was a bad purpose.

Mr. McGRATH. These corporations are already set up. It is not a case of letting them do it in the future. You have got them now and you have got them under this irrevocable trust agreement that you cannot break up; and they feel that they are in a position possibly of violating the law.

Senator TOWNSEND. You are simply making this amendment to cure a situation that now exists?

Mr. McGRATH. That is it, and to express directly in the law what our purpose is and what the Federal Reserve Board has been doing. These companies come to us and say, "What must we do to comply?" We say, "Take it off your stock certificates." We cannot order them to break up the arrangement, because they physically cannot do it.

Senator GLASS. Let me ask you this question, please. Have you undertaken in title III to clarify your definition of "affiliates"? For example, this case was brought to my attention. A newspaper in Harrisburg, Pa., three of whose stockholders or directors were on the board of a local bank, was declared a bank affiliate. That just seems idiotic, to me.

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Senator BULKLEY. There is a provision in the bill relating to that.

Senator GLASS. It ought to be clarified. It means banking affiliates, and it does not mean that a newspaper is an affiliate of a bank and that that newspaper is required, under the law, to make a complete statement of all of its business, its circulation, its advertising, its contracts and everything of that sort. No such thing was ever intended.

Mr. O'CONNOR. We have a church in the same position.

Senator GLASS. Well, it ought to be clarified.

Mr. O'CONNOR. Section 324, page 67, provides [reading]:

> Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of members banks are required to submit to examination, the Federal Reserve Board or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board or Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank.

That would clear it, Senator.

Mr. AWALT. That gives us discretion.

Senator GLASS. The idea of calling a newspaper an affiliate of a bank is absurd.

Mr. O'CONNOR. How about a church?

Senator GLASS. Or a church, either.

It is 12 o'clock. The subcommittee will adjourn until tomorrow morning at 10:30.

(Whereupon, at 12 m., the subcommittee adjourned until tomorrow, Wednesday, May 1, 1935, at 10:30 a. m.)

BANKING ACT OF 1935

WEDNESDAY, MAY 1, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Byrnes, Couzens, and Townsend.

Senator GLASS. The committee will come to order, and Mr. O'Connor will proceed with his statement.

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY—Resumed

Mr. O'CONNOR. Were we on section 310, Senator?

Senator BULKLEY. I think so.

Mr. O'CONNOR. That section permits holding companies to vote on the question of placing a bank in voluntary liquidation without having to go through the expensive routine incidental to obtaining a voting permit and section 310 (b). Under present law, shares held by a bank as sole trustee cannot be voted. It consequently sometimes results, where a large number of shares are so held in trust, that it is impossible to obtain the requisite number of votes required by law to accomplish certain steps such as reduction in capital, amendments to articles, and so forth, or to vote to go into voluntary liquidation where such is necessary.

Provision is accordingly made that the shares so held in trust shall be excluded in determining whether the resolution in question has been adopted by the requisite number of shares. For example, a bank has 1,000 shares outstanding. Four hundred of the shares, however, cannot be voted because held in trust by the bank as sole trustee. Consequently, in determining whether or not a resolution has been adopted by the required two-thirds vote, the 400 shares held in trust will be excluded, leaving a balance of 600 shares as the basis for determining whether a two-thirds vote has been obtained, in which case a vote of 400 shares in favor of the matter would be the requisite two-thirds majority of the shares entitled to vote.

Senator BULKLEY. It seems to me that your examination is not on the printed text of the bill; I judge that you have submitted a new draft of the section here.

Is that for the same purpose?

Mr. O'CONNOR. Yes; that is explained as follows, Senator:

It is suggested that these two subsections be rewritten and combined as one section, as per the draft before you, and add these additional changes: First, to show clearly that present law does not limit extra voting rights of Reconstruction Finance Corporation or other holders of preferred stock in case of default on preferred dividends; two, it permits stock held in trust by the bank, as sole trustee, to be voted where donor or beneficiary directs or controls the manner in which it shall be voted. This is desirable because the bank as trustee does not then in fact control such votes.

Senator TOWNSEND. Your amendment, as outlined there, takes care of the proposition to your satisfaction?

Mr. O'CONNOR. Yes, Senator Townsend.

Senator BULKLEY. All right; I do not have anything more to say about that.

Mr. O'CONNOR. Section 310 (c) is new, Senator, and is not included in your bill of last year.

It eliminates any doubt that a holding company which has set the requirements for obtaining a voting permit may cumulate its shares in the same manner as other shareholders are permitted to do. This is in conformity with the construction placed upon the present law by the Federal Reserve Board and by the Comptroller's office.

That is just a clarifying section.

Senator BULKLEY. Is that the only effect of it?

Mr. O'CONNOR. That is all.

Senator BULKLEY. All right.

Mr. O'CONNOR. Section 311 gives discretion to the Comptroller to permit a State bank converting into a national bank to carry over and retain, subject to certain conditions, such sound assets as a State bank may have which do not conform to the requirements as to assets held by national banks.

Senator BULKLEY. That proposition was approved by the committee a year ago.

Mr. O'CONNOR. Yes, sir.

Section 312 permits the Comptroller to delegate the manual labor of countersigning bond transfers in connection with substitution of securities held to secure circulation issued by national banks.

Senator BULKLEY. That was also approved last year.

Mr. O'CONNOR. That is right.

Section 313 permits branches of national banks, which banks are located outside of the United States, to charge the same interest rates permitted by local law to competing institutions.

Senator BULKLEY. That proposition was approved last year, but I notice that you have considerably shortened the form of the amendment.

Senator GLASS. Read that again, Mr. O'Connor.

Mr. O'CONNOR. It permits branches of national banks, which branches are located outside of the United States, to charge the same interest rate permitted by local law to competing institutions.

Senator, the parts omitted are the present law; and we feel that it is not necessary to reenact the present law, and we just add the proviso. That is the reason we shortened it.

Senator BULKLEY. Was there any change embodied by that paragraph?

Mr. O'CONNOR. Not down to line 10.

Senator BULKLEY. All right.

Mr. O'CONNOR. Section 314 is new. It provides that before the declaration of dividends, national banks shall carry not less than one-tenth part of their net profits of the preceding half year to surplus until the same is built up to an amount equal to the common capital instead of the present requirement that same need only equal 20 percent of capital. This change is deemed desirable in connection with the provision that assessment liability be eliminated from bank stock, and is further desirable from the standpoint of building up a proper capital structure.

I fully explained that yesterday, Senator.

Senator BULKLEY. Yes; I felt quite satisfied with what you said yesterday.

Mr. O'CONNOR. Section 315 is new. It extends the criminal provisions of existing law relative to embezzlement, false entry, and so forth, by officers and employees of member banks, to include any insured bank.

Senator TOWNSEND. Did not that apply to the insured banks under the old law?

Mr. O'CONNOR. No; not to nonmember banks.

Senator GLASS. Do you make that a prerequisite to entrance into the insurance fund? Otherwise, it does not seem to me that you have any right to do it.

Mr. O'CONNOR. Let us read the section and see if it is broad enough.

With the permission of the committee, I should like to insert a short statement showing just what the Attorney General has done since the passage of the act of May 18, 1934. It is a remarkable record, since we have been giving the Attorney General jurisdiction in these cases, under the new law you passed a year ago.

It is just a paragraph or two, and I should like to insert it.

Senator BULKLEY. You want to read it to us?

Mr. O'CONNOR. I do not have it with me. I just thought of it, as I was reading the section.

Senator GLASS. How do you mean it is a remarkable record?

Mr. O'CONNOR. In two ways: First, the number of convictions, the number of arrests; and also as indicated by a statement of one member of a gang of bank robbers. I have a statement from one of them, in which he said that they were very careful not to violate, or not to commit any act which is punishable by the Federal authorities, because the Federal Government would get them. But under the State they could get away with it.

Senator GLASS. Yes.

Mr. O'CONNOR. And then I have the summary of what has been done by the Attorney General's office since you passed the last act.

Senator GLASS. You mean, in convictions of persons who have been guilty of offenses against nonmember State banks?

Mr. O'CONNOR. Member State banks.

Senator GLASS. Well, there is no question about the right to do that.

But I am talking about nonmember banks. It seems to me that the only way you can apply the penalty to nonmember banks is to make it a condition of entry into the insurance fund.

Here is a provision, in title II, that would authorize the Federal Reserve Board to wipe out every single solitary requirement that might be made for entrance into the Federal Reserve System of a nonmember State bank, except the capital requirement. It practically waives everything.

Senator BULKLEY. Yes; that proviso is in the discretion of the Federal Reserve Board.

Senator GLASS. Yes; it is.

Senator BULKLEY. But it only applies to banks that have already been admitted to the insurance provisions.

Senator GLASS. That is very true. But it might mean this—and my conjecture is that it primarily means this: The Federal Reserve Act, in its very beginning, while it did not completely abolish exchange charges on check collections, it required that the banks could collect only actual costs, and it provides that now.

The actual cost is so infinitesimal that no statistician has ever been able to define it—meaning that the actual cost does not amount to anything. It has saved the business men of this country an average of $250,000,000 a year.

Under this provision of the bill that requirement could be abolished.

The thing was fought out in the courts over a period of 5 or 6 years. Cases were handled by Newton D. Baker, advisory counsel of the Federal Reserve Board, and carried to the Supreme Court; and the Board was sustained all the way through.

Now, here is a proposition that would enable the Board to abolish every requirement of membership in the Federal Reserve System.

Senator COUZENS. Mr. Comptroller, your Department has nothing to do with part II of the bill?

Senator GLASS. No; I understand that. But with respect to imposing penalties on offenses perpetrated by the officials of nonmember banks, I am no lawyer; and it seems presumptuous of me to raise a legal point.

But it seems to me that you could not sustain a proposition of that sort unless you make it a prerequisite of membership in the insurance fund.

Senator COUZENS. Can we not take care of that when we come to revise the bill?

Senator GLASS. I hope so. We may not revise the bill, you know.

Senator COUZENS. Let us go ahead.

Senator GLASS. All right; go ahead.

Mr. O'CONNOR. Section 316 gives the Comptroller closer supervision over national banks in voluntary liquidation, as distinguished from those in receivership, by requiring reports to him and to the shareholders, and subjecting the bank to examination. It also enables shareholders to remove an incompetent liquidating agent.

Senator BULKLEY. That was agreed to.

Mr. O'CONNOR. Yes, sir; and it is a rather important provision.

Section 317 is new, and extends present prohibition on use of the word "national" by banks other than national banks to include "Federal" or "United States", or any combination of such words.

We are trying to prohibit the use of any of those words in anything but a national bank.

Senator BULKLEY. As I understand it, this is an amendment to the provision of law that already prohibits the use of the word "na-

tional"; and the purpose of the amendment is to preclude the use of these other phrases.

Mr. O'CONNOR. That is right. For instance, we have a State bank in North Dakota called the "International Bank."

Senator BULKLEY. That would not be prohibited here?

Mr. O'CONNOR. Any combination of the word "national."

Senator COUZENS. I think that is highly desirable.

Senator BULKLEY. Oh, yes; it would cover that.

Mr. O'CONNOR. It is very important to prohibit any use of the words "United States" or "Federal."

Senator BYRNES. Do you have the use of the words "United States"?

Mr. O'CONNOR. We did have in New York—which I hope we shall never have again.

Section 318 amends section 5 of the Federal Reserve Act so as to require member banks to reduce their holdings of Federal Reserve bank stock upon a reduction in their own surplus, just as they are already required to do upon a reduction in their own capital. It would also repeal the provisions of sections 5 and 6 of the Federal Reserve Act, which require the board of directors of a Federal Reserve bank to execute a certificate to the Comptroller of the Currency showing an increase or decrease in the capital stock of the Federal Reserve bank. Inasmuch as every adjustment in Federal Reserve bank stock is approved by the Federal Reserve Board before the stock is issued or canceled, the filing of such certificates with the Comptroller of the Currency is a useless formality involving duplication of work.

That is entirely a matter of the Federal Reserve Board.

Senator BULKLEY. Here is a new proposal, to strike out the last paragraph of section 6 of the Federal Reserve Act. What is that?

It is a proposed addition to section 318.

Mr. O'CONNOR. This is what goes out, Senator:

> Whenever the capital stock of a Federal Reserve bank is reduced either on account of a reduction in capital stock of any member bank, or of the liquidation or insolvency of such bank, or on account of the appointment of receivers for a national bank, following discontinuance of its banking operations, as provided by this section, the board of directors shall cause to be executed a certificate to the Comptroller of the Currency showing such reduction of the capital stock and the amount repaid to such bank.

It is just useless and is entirely a duplication of work with the Federal Reserve Board.

Senator BULKLEY. All right.

Senator GLASS. The Comptroller of the Currency is a member of the Federal Reserve Board and ordinarily would be apprised of the fact, anyhow, would he not?

Mr. O'CONNOR. Yes; that is very pertinent.

Section 319 authorizes the Federal Reserve Board to prescribe form and contents of reports of conditions to be made by State member banks, and prescribes the manner in which such reports must be published.

Senator TOWNSEND. Does that refer to new State member banks or the old ones? Do you not already have a form for the present member banks?

Mr. O'Connor. There is no authority in the act to require publication of these reports unless the State law happens to require it.

Senator Townsend. Even though they are members?

Mr. O'Connor. Even though they are members.

Senator Townsend. All right.

Senator Glass. The Federal Reserve Board is authorized to accept the examination of the State authority, and to conform to the requirements of the State law, as to publicity.

Mr. O'Connor. That is right; that is the way it stands.

Senator Couzens. Is there any uniformity between the reports required of the State boards, and the reports required of the Comptroller of the Currency, of these State member banks?

Mr. O'Connor. They are identical.

Senator Couzens. It seems to me, in my observation, that there is a great deal of confusion existing, with respect to the form of these published bank statements. I have had considerable correspondence with the Comptroller and his staff about that. It seems, for example, that after the Comptroller has made a call, a certain form is published, under the requirements of law; and about that same date, another kind of report is published by the banks, giving a different set of figures, and which is not required by the Comptroller of the Currency. And the comparison of the two reports by that part of the country that does not belong to the banking fraternity cannot be understood.

It seems to me that there ought to be some provision requiring a uniformity of publication of these reports. I think the Comptroller recognizes—and at least his staff ought to—that this has created confusion. I do not know whether it can be covered by law, or not; I just raise the question.

Senator Glass. As a matter of fact, not one person in ten understands the published reports.

Senator Couzens. That indicates the perfect uselessness of publishing the reports.

Senator Glass. Do you not agree with that statement?

Senator Couzens. I think that is true, where there are two kinds of reports issued—one by the bank, on its own initiative, and another by order of the Comptroller of the Currency; I think that is true.

But if there were a uniformity of published reports, from time to time, so that some comparison could be made, they would be of benefit to the public, especially to large industries and large businesses.

Now, the trouble is that the published statement ordered by the Comptroller of the Currency, cannot be discerned, from reading the press, from a report that is published by the directors of a bank itself. And when you pick up one of these reports, you do not know whether it is a report published by order of the Government or a report published by order of the directors.

And in many of those cases a comparison is made, and no human being can get an understanding of what it says—just as the Senator from Virginia has said.

I brought this point up, because I thought the confusion should be stopped.

Mr. O'Connor. I can clear it up.

Senator Couzens. You can clear it up, but you cannot clear it up by a statement for the record.

Mr. O'CONNOR. I should like to suggest this clarification: The Senator has in mind banks that make further publication of statements and figures.

I can clear that up; I can make the regulation that the report that I require the banks to publish, shall state at the head, that it is the report that is required by the Comptroller of the Currency; I can require the banks to publish that statement right under the bank's title.

Senator GLASS. Does not this happen, Mr. Comptroller: The reports that are required by the Comptroller's Office to be published are technical?

Mr. O'CONNOR. Yes; very.

Senator GLASS. My observation has led me to the conclusion that not 1 patron of the bank in 10, unless he be an expert accountant as is the Senator from Michigan, or a large depositor, as is the Senator from Michigan—I am conjecturing, but I do not think that anybody would contest the accuracy of the conjecture—understands this technical report.

Therefore, many of the banks, in order to advertise their position so that the ordinary business man may understand it, print advertisements in the newspapers, and emphasize what they regard as the strength of the bank in particular items.

Of those reports, the Comptroller has no jurisdiction.

Senator COUZENS. The question is, Is it good judgment to have jurisdiction?

Senator GLASS. As a newspaper publisher, I am opposed to a regulation which would prohibit a bank from advertising its business.

Mr. O'CONNOR. But, Senator, I do think that Senator Couzen's point is well taken—just to show the report is one that is required by the Comptroller. When the forms are sent out, we can place, right under the bank's name, that this is a report that is required by the Comptroller of the Currency.

Senator COUZENS. That simplifies that particular part of it. But anyone who has been a banker, or who has had any experience in banking, knows that one of the best tests of the growth or falling off of a bank's responsibility and management, is caused by a comparison of the total deposits, and the character of resources, as they have changed from one report to another.

Now, if I take up a report published under the requirements of the Comptroller of the Currency today, and if the Comptroller of the Currency calls for another report in 6 months, and that is published, I have to go back to the newspaper of 6 months previous, and find out, by comparative figures, whether the bank is making progress or whether it is slipping back, or not.

So, in their effect, these reports published at the request of the Comptroller, are absolutely useless, except for the benefit of the newspaper publishers. And I do not see the benefit of requiring them, unless a more thorough analysis of the bank's condition is required when the report is published.

Senator GLASS. Would you stop all publications of reports, just because the newspaper gets an inconsequential fee out of the advertising charge?

Senator COUZENS. No; what I am trying to bring out is the necessity for more understandable reports.

The reports are absolutely nonunderstandable, because you can make no comparison. And the only way by which you can judge the development of a bank, and the only way you can determine whether it is slipping or going forward, is by a comparison of the reports published from time to time.

Senator GLASS. I am one of the very modest depositors in a bank; and the only way I can get any idea of what the bank is doing, is whether I get my dividends, or do not get my dividends.

Senator COUZENS. I am not so much concerned about that as I am with the welfare of the depositors.

Senator TOWNSEND. Unless you had a comparative statement of the bank's business for a 6-month period, or for a year previous, how would you benefit?

Senator COUZENS. You would not, except that the reports published close together, one at the direction of the directors and one at the direction of the Comptroller of the Currency, are confusing. And I can bring in numerous records to show that the reports, where they come close together, are confusing to the public, and they are very useless.

And it does seem to me that the situation is such that the administrative department of the Government, either by administrative order or by legislative requirement, should demand a different kind of report than is now published.

I do not care how many reports are published, and I want to give the newspapers all the ads they can get, because I think that the more the public knows about the condition of the banks, the better it is.

Senator GLASS. Of course, I tried to be amusing, in my reference about newspaper advertising.

Mr. O'CONNOR. Section 320 (a) amends section 11 (m) of the Federal Reserve Act, so as to place State member banks on a parity with national banks in lending on the security of bonds, notes, certificates of indebtedness and Treasury bills of the United States, by changing the limitation on loans to one individual on such security, from 10 percent of the bank's unimpaired capital and surplus to 25 percent thereof, as provided by national banks in section 5200 of the Revised Statutes.

That was approved by the committee last year.

Section 320 (b) amends section 5200 of the Revised Statutes so as to extend the eighth exception thereof, which pertains to loans secured by bonds, notes, and certificates of indebtedness of the United States, so as to apply also to loans secured by Treasury bills of the United States.

That was approved by the committee last year.

Senator BULKLEY. I do not find it so, Mr. O'Connor.

Senator COUZENS. I do not see any section 320 (b) in the bill.

Mr. F. G. AWALT. No; that is our recommendation.

Senator TOWNSEND. I do not find it in the bill.

Senator BULKLEY. I do not find the subject matter of section 320 (b) in last year's bill.

Mr. O'CONNOR. That is right, Senator. That is in the bill that I handed to the committee, with those additional changes we suggested.

It should be the bill, Senator, that I gave the first day.

Senator BULKLEY. This year?

Mr. O'CONNOR. Yes; with the additional changes suggested.

Senator GLASS. I do not recall that the Banking Act of 1933, or any banking act, advances a limitatio nof 10 percent on loans to individuals, partnerships, associations, or corporations. It was changed to 25 percent.

Senator COUZENS. Is not that a development along the lines that you have been talking about of requiring the banks to load up with Government securities?

Senator GLASS. You mean that I have been advocating the loading up with Government securities?

Senator COUZENS. No; I merely said that you have been talking about it; I did not say that you have been advocating it or opposing it.

But that would accomplish this purpose if they were allowed up to 25 percent?

Senator GLASS. Yes; I think so.

Senator TOWNSEND. That liberalizes the provisions of the State member banks.

Is that what you are trying to do, Mr. Comptroller?

Mr. O'CONNOR. That is correct.

The old section reads:

> Obligations of any person, copartnership, association, or corporation in the form of notes secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

Senator BULKLEY. Were you reading from the Federal Reserve Act?

Mr. AWALT. Reading from the National Banking Act, section 5200, Revised Statutes, as amended.

Senator GLASS. Proceed.

Mr. O'CONNOR. Section 321 is new. The present law permits the Federal Reserve bank to make direct loans to private business on adequate endorsement and security. The amendment permits such loan on adequate endorsement or security.

Senator GLASS. Why do you not make it "and/or"?

Senator COUZENS. It is in the bill, in that way.

Mr. O'CONNOR. Section 322. This section makes certain changes in the language of section 13 (b) of the Federal Reserve Act, making it conform to the amendment in title I of the bill, whereby stock of the Federal Deposit Insurance Corporation subscribed for by the Federal Reserve banks is changed to no par value. These changes are in form only, and do not alter the effect of the existing law.

Senator COUZENS. What were your reasons for changing it to "no par value"?

Mr. O'CONNOR. I do not know that it makes a great deal of difference, except that I believe the suggestion of the chairman, on that point, was that there would not be the impairment of the capital, if it were "no par."

Senator GLASS. Which chairman?

Mr. O'CONNOR. The chairman of the Federal Deposit Insurance Corporation; Mr. Crowley.

Section 323 (a) is partly new, and authorizes the Federal Reserve Board to define "deposit" and related terms for reserve and interest requirements respecting deposits.

Senator TOWNSEND. Who defines those deposits?

Mr. O'CONNOR. The Federal Reserve Board.

Senator BULKLEY. I think we ought to have a more full explanation of that. I am frank to say that I do not see what that is driving at.

Senator COUZENS. Was that new over last year's act?

Senator BULKLEY. Yes.

Mr. O'CONNOR. Yes; part of it is new.

Senator BULKLEY. It is all new in the sense that it was not contained in our omnibus bill last year.

Mr. O'CONNOR. I am reading from the report of the House, page 21:

> Section 323 (a) amends section 19 of the Federal Reserve Act so as to repeal the rigid statutory definitions of "demand deposits" and "time deposits" and authorizes the Federal Reserve Board to define for the purposes of the section the terms: "Demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits", "savings deposits", and "trust funds", to determine what is to be deemed a payment of interest and to prescribe regulations to effectuate the purposes of the section.

Oh, yes; it comes back to me now: We had a number of discussions in the Federal Reserve Board, gentlemen, after the passage of the 1933 act, when you eliminated the interest on demand deposits, as to what constituted a demand deposit, a time deposit, or a savings deposit. We found great difficulty in applying the definitions that were in the act, and we found some of the banks attempting to circumscribe the prohibitions; and we wanted, when we found those evasions, to keep correcting the definition until they could not evade it.

Senator COUZENS. Why was that not brought up in the omnibus bill last year? You had not had the experience; is that it?

Mr. O'CONNOR. No. It was in the bill last year although the language may have been slightly different.

Senator BULKLEY. I think there was a slight error in the marking of my copy and that the Comptroller is right. That part of this was in the omnibus bill last year.

Senator TOWNSEND. At the present time member banks are not permitted, in estimating their reserve balances, to deduct the amount of their gross demand deposits, are they? And this gives them that privilege—due from other banks?

Mr. O'CONNOR. Due from other banks; oh, yes.

Senator TOWNSEND. Well, I think they should have that privilege.

Senator GLASS. We shall have to take that up when we come to it.

Senator BULKLEY. Yes; there was a different arrangement of it in the omnibus bill last year, and I should have to give it further study to see what this change is.

Mr. O'CONNOR. Section 323 (b) amends section 19 of the Federal Reserve Act so that, for purposes of computing member bank reserves, amounts due from other banks (including checks in process of collection) may be deducted from gross demand deposits rather than from balances due to other banks, thus extending the benefit of this deduction to country banks which have no balances due to other banks.

Senator BULKLEY. I think that is new matter.

Mr. O'CONNOR. Yes; that is new matter. It is not marked "new" on my notes, Senator.

Senator BULKLEY. Have you anything to say about subsection (b)?

Mr. O'CONNOR. No, sir.

Senator BULKLEY. Now, subsection (c), in a slightly different form, was in the omnibus bill last year?

Mr. O'CONNOR. That is correct.

Senator BULKLEY. What is the change in that?

Mr. AWALT. I do not know exactly, now.

Mr. O'CONNOR. I can tell you, Senator, exactly what the present section provides for.

Section 323 (c) amends section 19 of the Federal Reserve Act so as to add to the classes of deposits exempted from the prohibition against the payment of interest on demand deposits the following: First, deposits payable outside the States of the United States and the District of Columbia (rather than merely those payable in foreign countries); second, deposits of trust funds on which interest is required by State law; and, third, deposits of the United States, its Territories, Districts, or possessions on which interest is required by Federal law.

Senator BULKLEY. In the corresponding section of the omnibus bill last year, there is a rather important sentence that seems to be omitted here; and I am wondering if you recall that, which is as follows:

> Any director or officer of any bank who shall have continued to violate the provisions of this or the preceding paragraph or the rules or regulations issued pursuant thereto after having been warned to desist therefrom may be removed from office in accordance with the provisions of section 30 of the Banking Act of 1933: *Provided*, That in the case of a director or officer of a nonmember bank, the warning and certification provided for therein shall be given by the Federal Deposit Insurance Corporation.

Mr. O'CONNOR. We have the general removal clause of the Banking Act; and they felt that that was sufficient, Senator, under the general removal clause of the Banking Act of 1933 to cover this situation.

Senator BULKLEY. You really did not intend to leave out the power, but simply felt that it was provided for elsewhere?

Mr. O'CONNOR. That is correct.

Senator BULKLEY. We shall have to look into that further.

Mr. O'CONNOR. Section 323 (c) is also amended to make more flexible the Federal Reserve Board's power to classify time and savings deposits and limit the rates of interest to be paid thereon. The absolute prohibition against the payment of time deposits before maturity is relaxed to permit such payments under conditions prescribed by the Board; and deposits payable only at offices of member banks located outside the States of the United States, and the Dis-

trict of Columbia are exempted from all restrictions on payment before maturity and all restrictions on interest rates.

Section 323 (d) is new. It requires member banks to maintain the same reserves against the Government deposits as against other deposits.

Section 324 permits the Federal Reserve Board or the Comptroller of the Currency, as the case may be, to permit waiver of report and examination of affiliates of a bank where such report and examination is not necessary in a particular case to disclose relationship existing between the bank and the affiliate. This eliminates the burden and expense now involved in hundreds of cases where there is no beneficial object to be gained in requiring submission and publication of such report, due to the fact that the affiliate is merely a technical, accidental affiliate, having no relationships whatsoever with the bank—such, for example, as newspapers, clothing stores, lumberyards, and so forth, which become technical affiliates because of the accident that a majority of their directors happen to be directors of the bank.

We discussed that yesterday.

Senator GLASS. Oh, yes; that is a mere technical opinion, for which your office is not at all responsible. It gave people infinite, senseless trouble.

Mr. O'CONNOR. Section 325 (a) is new. It extends the present provisions of the law prohibiting loans and gratuities to examiners of member banks to include examiners of all insured banks.

Senator BULKLEY. Is that all that section 325 does?

Mr. O'CONNOR. I am coming to subsection (b) now.

Section 325 (b) is new. It extends to the Federal Deposit Insurance Corporation examiners the present prohibitions of law against the disclosure of confidential information by examiners.

And section 325 (c) is partly new. It corrects impractical features of present law relative to loans to executive officers of banks by vesting certain discretions with the Federal Reserve Board to issue regulations governing same and substituting removal from office for present criminal provisions of the law. There is also a 3-year extension of time within which present loans must be retired—such extension, however, operative only if the board of directors adopt a resolution determining that it is to the best interest of the bank to make the extension, and that the officer has made every proper effort to reduce his obligation.

We have already covered that very fully, and it is all in the record.

Section 326 is partly new. Under present law there are certain rigid requirements and limitations on loans to affiliates. Exception to these requirements is provided for where the affiliation arose out of foreclosure by the bank on collateral. It is often necessary to advance funds to an affiliate, control of which has been obtained through foreclosure in order to enable the bank to salvage the real value out of its assets and reduce the bank's loss. Under the circumstances such affiliate manifestly cannot borrow elsewhere. There is also excluded the accidental type of affiliate, control of which is obtained by the bank in a fiduciary capacity, as, for example, where the bank becomes executor and/or trustee of the deceased's estate, among the assets of which is a going business which must be operated by the bank as such trustee. There is also excluded an affiliate

engaged solely in operating property acquired for bank purposes. An additional exception now recommended is to exclude from the limitations of the section loans fully secured by obligations fully guaranteed by the United States and loans to affiliates engaged solely in holding such obligations, thus extending present law in that respect as to direct obligations of the United States, to include obligations guaranteed by the United States.

I am not quite going to finish this, Senator. And since we are closing at 12 o'clock, I should like to call the attention of the committee to another suggested amendment I have to title III.

Senator BULKLEY. Why do you not go right ahead; we may sit a little after 12 o'clock.

Mr. O'CONNOR. Very well.

Section 327 is new. It exempts loans for industrial purposes made in cooperation with a Federal Reserve bank or the Reconstruction Finance Corporation from existing restrictions on real-estate loans by national banks, due to protection received by the banks from either the Federal Reserve bank or the Reconstruction Finance Corporation, where such loans are jointly made. As to such loans, there is no need for such restrictions as are desirable for a real-estate loan made by the bank in its sole capacity. Furthermore, such existing restrictions have been found to seriously interfere with the scope and object of the Industrial Loan Act as they operate to prevent two or more banks cooperating with the Federal Reserve bank or the Reconstruction Finance Corporation in making a single industrial loan, prevent such loan where a substatial part of the security is real estate located outside of the restricted area in which national banks are limited in making real-estate loans, and for other reasons.

Section 328 is new. It amends the Clayton Act to permit the Federal Reserve Board to supervise, by regulation instead of by permit, the matter of interlocking directorates which we discussed the other day.

Sections 329 and 330 bring the law governing consolidation of national banks into conformity with that governing consolidations of a State and National bank, and offer additional protection to dissenting shareholders in the matter of obtaining the appraised value of their stock. Requirement is made that notice of dissent be given by such shareholders when the vote to consolidate is had.

That was approved.

Sections 331 and 332 are new. They extend to the Federal Deposit Insurance Corporation the protection now given by law to other Federal institutions against the misleading use of their name, and extend to all insured banks the present requirements of law making robbery of member banks a Federal offense.

Section 333 amends section 5143 of the Revised Statutes——

Senator BULKLEY. You are now going beyond the bill, as introduced?

Mr. O'CONNOR. Yes; that is right.

Section 333 amends section 5143 of the Revised Statutes, so as to make it clear that, in approving reductions of capital stock by national banks, the Comptroller of the Currency, in order to conserve the assets for the protection of the banks, may specify that

such banks shall not distribute a corresponding amount of their assets due their shareholders. The amendment would also trike out the words which make it necessary for capital stock reductions to be approved by the Federal Reserve Board, in addition to the Comptroller of the Currency, thus eliminating an unnecessary duplication of work.

Section 334 amends section 5139 of the Revised Statutes by adding a paragraph specifying certain information to be stated on certificates hereafter issued, representing shares of stock in national banks.

Section 335 amends the last sentence of section 301 of the Emergency Banking Act of March 9, 1933, so as to require, in connection with the issuance of preferred stock, the same kind of a certificate by the Comptroller of the Currency as to the validity of such issue, as is now required in the case of the issuance of common stock.

Section 336 would terminate——

Senator GLASS. Does that interfere with any of the operations of the R. F. C.?

Mr. O'CONNOR. No, sir. They have asked it, because it protects them as well as other holders of preferred stock.

Section 336 would terminate the liability of shareholders of banks and trust companies in the District of Columbia, as of July 1, 1937, in a manner similar to that provided elsewhere in the bill for terminating the liability of shareholders of national banks.

In other words, they are under the jurisdiction of the Comptroller, entirely; and we feel that they should be entitled to the same consideration that we extend to national banks.

I should like to call to the committee's attention an amendment which we are proposing, and which we are asking to be incorporated in the bill, which would permit the Comptroller's office to provide a fund for pensions for examiners, similar to those now provided for by the Federal Reserve examiners. There is no cost to the Government, of course; and there is only a very small charge to the banks.

And in that connection, I should like to submit for the record the technical amendment, and also a letter.

Senator GLASS. What is the existing provision of law with respect to pensions of Federal Reserve examiners?

Mr. O'CONNOR. It is not a provision of law, Senator, in the Federal Reserve, that being quite a different set-up than we have in the Comptroller's office.

Senator GLASS. The reason I am asking the question is that I know that the matter of pensions came before Congress some 8 or 10 years ago. The Federal Reserve Board made a recommendation to Congress, in respect to pensions; and it was not agreed to. And I wondered what sort of a pensions system the Federal Reserve Board is now authorized to have, without sanction of law.

Mr. O'CONNOR. Well, they do it by a joint contribution of the Federal Reserve banks—the Federal Reserve banks seemed anxious to do it—on the theory of additional compensation.

Senator GLASS. Well, I am not questioning the desirability of the matter; I am just wondering what sanction of law they have for anything of the kind.

Mr. O'CONNOR. Well, there is no direct provision of law, Senator, as I am informed.

Senator GLASS. There are so many matters that are not under lawful sanction, that I am not pressing the question.

Mr. O'CONNOR. That is why I am asking the consideration of the committee to this authority so there will not be any question of the authority.

Senator GLASS. That is right. That is the way that the branches of the Federal Government should do; they should ask authority for things they do, and not just do them.

Mr. O'CONNOR. For the record, I should like to submit the suggested amendment, and the letter which gives, a little more in detail, for the information of the committee, just how we propose to handle it.

The letter is on the letterhead of George B. Buck, consulting actuary, New York City; and it is dated April 29, 1935.

It is addressed to Mr. J. F. T. O'Connor, Comptroller of the Currency, Treasury Building, Washington, D. C.; attention, Mr. George P. Barse, counsel, and reads as follows:

DEAR SIR: On April 27 I had a conference with Messrs. George P. Barse and M. M. Washburn, of your office, at which time I was requested to send you a letter outlining certain actuarial work which I should be happy to perform for your Department.

As I understand the situation, there are approximately 700 bank examiners and associated employees, whom you desire to cover under a retirement system with benefits similar to those of the retirement system of the Federal Reserve banks, if the same is practicable. I am advised that you have complete service and salary records of all those to be covered, which you can supply to me, which records give the essential data on the basis of which, together with suitable mortality and service tables such as are used in the retirement system of the Federal Reserve banks, all needed actuarial calculations can be made.

Upon receipt of these records, we will undertake to test the practicability of the plan, which now appears entirely practical, and to make a valuation of the liabilities involved should these employees be covered by provisions the same as those of the retirement system of the Federal Reserve banks. The percentage rates of contribution required to be paid on account of such members in order to provide for the liquidation of the liability will also be determined. The results of the valuation and the rates would be submitted to you within 30 days after the date the data are received complete.

In addition to making the valuation above mentioned, I would review the deed of trust and the rules and regulations covering the operation of the system which you prepare. These documents would, I understand, follow closely those used by the Federal Reserve banks, which rules were drafted originally by this office.

With the results of the valuation, the deed of trust, and the rules and regulations, you will have all you need for the final approval and the adoption of the system. The work outlined above could be performed by my office at a fee to be determined on the basis of the time required to complete the work, but with a fixed maximum of $1,000 for all work enumerated. This fee would include the cost of two conferences. Additional conferences would be charged for at the rate of $35 per day and expenses if outside of New York. Probably not more than one conference will be needed for the work described, so that the cost of the other will be saved.

In addition to the above work there would be certain work required in connection with setting up the proper forms and records for the operation of the system after the system is authorized. Also for most of our clients we act as regular consultants, making an annual actuarial valuation of the assets and liabilities of the system, recommending the necessary adjustments in mortality tables required to offset unfavorable experience, auditing each retirement allowance granted, and certifying the reserve to be set up at retirement, and helping with miscellaneous technical questions which arise when the system is operating. I should be very happy to have this office perform similar services for your Department. The cost of this work can best be estimated when the terms of the final plan are determined upon just prior to its adoption.

With the completion of the work described above, you will have everything done that was done by the Governor's Committee of the Federal Reserve banks before the plan was finally approved by the banks and the Federal Reserve Board. The other work described has to do with the details of administration of the system after its approval in order that it may be accommodated to your existing personnel and pay-roll records with the minimum of effort and expense. If you proceed with the work, I understand that the record cards will be delivered to my office, at which time the final details as to the valuation will be arranged.

Trusting that you will find our services entirely satisfactory in every respect, I am,

Very truly yours,

GEORGE B. BUCK, *Actuary.*

The amendment is as follows:

SEC. —. The second sentence of the third proviso of section 5240 of the Revised Statutes, as amended (U. S. C., Supp. VII, title 12, sec. 481 and 482), is amended by striking out the word "is" after the words "whose compensation" and inserting in lieu thereof, a comma and the following:
"including retirement annuities to be fixed by the Comptroller of the Currency, is and shall be", and said section is further amended by striking out the words, "The Federal Reserve Board, upon the recommendation of."

That concludes my remarks.

Senator BULKLEY. Those several additions, from section 333 on, are substantially what we reported to the House, are they not?

Mr. AWALT. They were reported by the House.

Senator BULKLEY. In the House report I find three additional sections.

Have you any comment to make on those?

Mr. AWALT. They were added by the House committee itself; we had nothing to do with them.

Senator BULKLEY. Do you have anything to say about them?

Mr. AWALT. No, sir.

Senator GLASS. Do you want to have anything to do with them?

Mr. AWALT. As I understand it, Judge Birdzell handled all three of those amendments.

Mr. O'CONNOR. I talked to the chairman, Mr. Crowley, this morning; and he said he was preparing a letter for the committee, that would be sent up this morning, approving the position I took yesterday with reference to the admission of banks to the fund. No doubt that letter should be here this morning.

Senator GLASS. I had word from Mr. Crowley, and he was expected to follow you this morning. He said that he would like to come up for a few minutes tomorrow morning, and very likely he will present it then.

STATEMENT OF L. E. BIRDZELL, GENERAL COUNSEL, FEDERAL DEPOSIT INSURANCE CORPORATION, WASHINGTON, D. C.

Mr. BIRDZELL. There are three provisions here. Two of them deal with security which banks are required to give: One, for deposits of bankruptcy funds; the other, for deposits of receivership funds; and the third amendment deals with the matter of postal savings.

In the Banking Act of 1933, express provision was made for relieving the banks of the necessity of giving security for postal-savings funds, to the extent that they would be insured by the insurance of our Corporation. And following the principle of that, the

Corporation has thought that it would be well to relieve the banks of the burden of giving other security for some other types of deposits, where it is more or less of a nuisance.

In the case of bankruptcy funds, for instance, the banks, under existing law, would be required to give security, notwithstanding the fact that the deposit would be insured.

The same is true in regard to funds that may be deposited in a bank authorized to receive the deposits of receivers. Those two matters are taken care of in sections 338 and 339, in the same way that the Banking Act of 1933 took care of the deposits of postal-savings funds.

Senator GLASS. You suggested those?

Mr. BIRDZELL. We suggested those to the committee, and they incorporated them in the House bill.

The other is the Postal Savings matter, raising a question of competition between the Postal Savings Department and savings banks. With prohibitions existing against the payment of interest on demand deposits, and the limitation of the interest rate payable on savings deposits, banks are feeling, to some extent, the competition with the Postal Savings.

Under the law and the regulations of the Postal Department, prospective depositors are given the assurance that if they put their funds in the Postal Savings bank, they can withdraw them any time they want, and receive interest substantially down to the date of withdrawal.

The banks feel that this is a species of unfair competition.

The provisions of the existing law, on that subject, have been restated, here in section 340, on pages 90 and 91 of the House bill, with a view to requiring the forfeiture of interest for a definite period, in the event of the withdrawal of Postal Savings funds without giving the normal 60-day notice. The definite period provided for, in this act, is 3 months—in other words, one can withdraw his funds from the Postal Savings bank, now, without giving a 60-day notice, under the terms of this law. But he will forfeit interest on the amount withdrawn, for the period of 3 months. The reason a definite period is put in there is because there is no regular interest-crediting date in the Postal Savings. If you put in your fund today, it will begin drawing interest on the 1st of the following month; and your interest will be credited at stated intervals thereafter.

Senator GLASS. Have you discussed that with the Post Office Department?

Mr. BIRDZELL. We have from time to time discussed the general question with the Post Office Department.

As a matter of fact, under the existing law it is difficult to see how interest can be allowed on funds that are allowed to be withdrawn without giving the 60-day notice, because the existing law provides that where funds are withdrawn, without giving the 60 days' notice, no interest shall be allowed that has accrued subsequent to the passing of the Banking Act of 1933.

But somehow they think that is ambiguous, and they have been paying interest.

Senator GLASS (reading):

Any depositor may withdraw the whole or any part of the funds deposited to his or her credit, with accrued interest on them, on notice given 60 days in advance, and under such regulations as the Postmaster General may prescribe; but withdrawal of any part of such funds may be made upon demand, but no interest shall be paid on any funds so withdrawn, except interest accrued to the date of enactment of the Banking Act of 1933.

Mr. BIRDZELL. Now, that would seem to me not to be ambiguous; but under the regulations and the practice, I understand that they are paying interest where funds are withdrawn without giving 60 days' notice, and they are paying interest accruing subsequent to the passage of the banking act.

This particular provision was put in at the suggestion of the House Members. I simply acted as their agent in drafting it.

But this particular provision has not been taken up with the Postal Department, so far as I know, because it was not proposed, originally, by us.

Senator GLASS. Well, I think that perhaps it should be done by this committee.

I am told, Judge, that you are an exceptionally able lawyer; and I should like to get your judgment upon this requirement as to the payment of interest on deposits:

The Federal Reserve Board shall from time to time limit by regulation the rate of interest which may be paid by member banks on time deposits.

And now, note this, please:

And may prescribe different rates for the payment on time and savings deposits having different maturities or subject to different conditions respecting withdrawal for repayment.

And now, note this, particularly:

Or subject to different conditions by reason of different locations.

Would you, or would you not, imagine that whoever is responsible for drafting that provision of law, had in mind that that should be done? In other words, do you think that they had in mind that there should not be a uniform rate of interest on deposits, but a differentiating rate, according to circumstances?

Mr. BIRDZELL. According to the business transacted and the location of the bank and the terms under which deposits may be made?

Senator GLASS. Yes.

Mr. BIRDZELL. I would say that it clearly contemplated that a differentiation might be made, taking into consideration those different elements.

Senator GLASS. It contemplated it would be made, because we discussed it for hours and hours, in our committee.

Mr. BIRDZELL. It may be doubtful whether a uniform rate could be prescribed, unless it were found that the conditions justifying a uniform rate were likewise uniform.

Senator GLASS. Of course, it should not be—and there is no more reason why there should be a uniform rate of interest payment on deposits than that there should be a uniform rate of discount throughout the United States. A bank that is limiated by State statute to a 5-percent current rate, or a 6-percent current rate, ought not to be expected to pay the same rate on deposits as a bank that is

authorized by State statute to pay 8, 10, or 12 percent, or to charge 8, 10, or 12 percent on the use of its deposits.

Does not that seem reasonable?

Mr. BIRDZELL. Yes; it does.

I do not like to edit the Senator's remarks, but that complimentary portion, in referring to me, Senator, will be just as well omitted.

Senator GLASS. No; no.

STATEMENT OF J. F. T. O'CONNOR, COMPTROLLER OF THE CURRENCY—Resumed

Mr. O'CONNOR. Senator, I have the record, now, of work done by the Department of Justice, under the act passed by Congress and signed by the President, May 16, 1934—a Federal statute making robbery of national banks and member banks of the Federal Reserve System, a Federal offense—and a statement of the work thereunder; and I would ask permission to place in the record extracts dealing with the Department of Justice, on pages 3 to 6.

Senator GLASS. There is no issue raised about the right of the Federal Government to deal with those questions with respect to national banks and State member banks; the question is whether the Federal Government has any right to deal with them in cases of nonmember banks, unless you make it a prerequisite to the right of insurance.

Mr. O'CONNOR. I am rather inclined to agree with that, Senator.

But the object was to show the work that had been done under the laws passed by Congress. That is the reason why I wanted those statistics put in the record.

Senator GLASS. You wanted that put into the record?

Mr. O'CONNOR. Yes; if you please.

Senator GLASS. All right; put it in the record.

(The statement of activities of the Department of Justice is as follows:)

The Department of Justice, under the direction of Attorney General Homer Cummings, has initiated an intensive move against organized crime; against those crimes of violence that appear as an accompaniment of modern civilization, at least in its American manifestations. What Attorney General Cummings has had in mind, and what he now has in mind, is an unrelenting, persistent, sustained effort to deal with crimes of outlaw individuals and desperate gangs who arm themselves with lethal weapons of offense, and who avail themselves of all the resources of modern transportation and communication to commit their depredations upon the social, economic, and moral welfare of the Nation. Coupled with this well-defined group are individual or gang kidnapers and extortionists who have committed and are committing odious crimes against private citizens and their families.

During the 73rd Congress, the Attorney General advocated the passage of certain Federal criminal statutes, the object of which was to lend Federal assistance in a movement to protect our social organization against specified crimes of violence. He felt that between State and Federal jurisdiction there existed a kind of twilight zone—a gap through which criminals of the most dangerous description were escaping. The recent broadening of Federal power was designed to illuminate that twilight and fill that gap. Most of the legislation enacted extends to the Federal Government jurisdiction in crimes of an interstate character in which roving criminals are the principal offenders. The object of such legislation is to enable Federal authorities to deal with crime in its interstate aspects, to assist in the administration of justice at the point where State jurisdiction ends, or where, in the nature of an interstate crime committed under modern conditions, the existence of an inter-

state enforcement unit to cooperate with State and local agencies is desirable for the prompt detection and apprehension of the criminal.

Attorney General Cummings called a conference on crime last winter in Washington to consider this problem. This conference was for the purpose of appealing to the public for its thoughtful advice, for its sustained interest, and for its active help in a national movement to meet a common peril. In attendance there were the representatives of Federal, State, Territorial, and local Governments, as well as representatives of more than 75 private and quasi-public agencies the interests and activities of which were pertinent to this problem. In all there were about 600 delegates present from all parts of the United States, who heard from the lips of practical experts a discussion of crime in its principal aspects.

The short time which has elapsed since the passage of the series of crime bills sponsored by the Attorney General does not permit a comprehensive analysis of the assistance which the Federal Government can render to State and local agencies in dealing with interstate crimes or the effect which the enlarged jurisdiction of the Federal Government will have in decreasing such crimes. However, experience has shown certain facts that may be of interest.

The Lindbergh kidnaping case occurred on March 1, 1932. The commission of this crime resulted in the passage and approval of the Federal kidnaping statute on June 22, 1932, which gave the Federal Government jurisdiction in cases involving kidnapings wherein interstate features were present. Since the passage of this statute the Federal Bureau of Investigation of the United States Department of Justice has participated in the investigation of 35 cases involving actual kidnaping and plots to kidnap. In all of these cases the identities of the kidnapers are known. In the cases handled 81 persons have been convicted and 41 persons are now in custody awaiting trial. Sentences totaling 1,231 years 11 months and 2 days, suspended sentences totaling 32 years, and probationary sentences totaling 22 years have been imposed, in addition to 16 life sentences and 4 death sentences. In addition 2 kidnapers were lynched, 3 committed suicide, 3 were murdered, and 4 were killed by officers.

The Federal bank robbery statute, making robberies of national banks and member banks of the Federal Reserve System a Federal offense, was approved by the President on May 16, 1934. Since that date there have been 116 robberies of national banks and member banks of the Federal Reserve System, with losses totaling $509,000, which have been reported to the Federal Bureau of Investigation.

As the result of investigations conducted there are at the present time 72 individuals in custody awaiting further prosecutive action in connection with these robberies and 47 individuals have been convicted in Federal court in connection with these robberies. Two received life sentences and others have received sentences totaling 1,095 years, suspended sentences totaling 120 years, probationary sentences totaling 38 years, and $33,206 in fines. One person has been acquitted. In addition trials in State courts have resulted in 22 convictions, with 2 life sentences, 13 indeterminate sentences, and other sentences totaling 136 years. During this period 6 bank robbers have been killed by State officers and 1 adjudged insane.

Mr. O'CONNOR. And there is one other matter which I shall ask Mr. Awalt to present.

STATEMENT OF F. G. AWALT, DEPUTY COMPTROLLER OF THE CURRENCY, WASHINGTON, D. C.

Mr. AWALT. Senator, you remember that under 11 (k) of the Federal Reserve Act, national banks that exercised fiduciary powers are required to keep a separate set of books and records showing, in detail, all transactions engaged in.

Then the law provides:

> Such books and records shall be open to inspection by the State authorities, to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers; but nothing in this act shall be construed as authorizing the State authorities to examine the books, records, and assets of the national bank which are not held in trust under the authority of this subsection.

Now, under that a great many of the States have for a long time accepted the examinations made of the national banks by us.

Recently some of them have started to examine—which means a duplication of examination. We examine, and they examine.

And it has been suggested for consideration—and we should like to suggest this for the consideration of the committee—that the committee amend that particular provision by providing that the State banking authorities may have access to the reports of examinations made by the Comptroller of the Currency, insofar as such reports relate to the trust department of such banks, instead of having a duplicate examination.

(The above-mentioned proposed amendment relative to examination of trust departments of national banks is as follows:)

SEC. —. The last sentence of the third paragraph of subsection (k) of section 11 of the Federal Reserve Act, as amended (U. S. C., title 12, sec. 248 (k)), is amended to read as follows: "The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this Act shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank."

Senator GLASS. That is all for this morning, gentlemen. We shall adjourn until tomorrow morning at 10:30.

(Thereupon, at 12:30 p. m., an adjournment was taken until tomorrow, Thursday, May 2, 1935, at 10:30 a. m.)

BANKING ACT OF 1935

THURSDAY, MAY 2, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Robert J. Bulkley presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Bankhead, Couzens, and Townsend.

Also present: Senators Barbour and Moore.

Senator BULKLEY. Senator Glass says he will be here in a few minutes; and in the meantime Mr. Crowley wants to supplement his testimony.

STATEMENT OF LEO T. CROWLEY, CHAIRMAN FEDERAL DEPOSIT INSURANCE CORPORATION—Resumed

Mr. CROWLEY. Senator Bulkley, there are three particular problems of the Federal Deposit Insurance Corporation which I should like to have included in the record in my remarks. One of those is the question of admission of banks to the fund.

The House, in its bill, has taken out that part of subsection 7; and I should particularly like to call your committee's attention to that section which gives us the right to investigate the financial history and condition of the bank, the adequacy of its capital structure, its future earnings, prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purpose of this section.

Senator BULKLEY. From what were you reading?

Mr. CROWLEY. This is the wording of the subsection that the House took out.

Senator BULKLEY. That was the subsection that was in the draft of the bill as originally introduced, and the House committee struck it out?

Mr. CROWLEY. That is correct, Senator.

Senator BULKLEY. And you want it in again?

Mr. CROWLEY. It is in your bill now; and we want to keep it in if we possibly can.

Senator BULKLEY. And you want now to have printed in the record a memorandum in support of that addition?

Mr. CROWLEY. That is correct.

Senator BULKLEY. Very well; it will go in.

(The memorandum is as follows:)

MEMORANDUM CONCERNING TITLE I, BANKING ACT OF 1935, AS INTRODUCED IN THE HOUSE (H. R. 7617)

As originally introduced, the section on admissions read as follows (that portion which is italicized has been deleted in the House bill):

"SUBSECTION 7. (g) The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the following: The financial *history and* condition of the bank, the adequacy of its capital structure, *its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purpose of this section.*"

The Federal Deposit Insurance Corporation believes that the clauses in this section which were deleted in the House bill are of vital importance and should be retained. The Corporation was obliged under the original Deposit Insurance Act to take in a considerable number of banks which were certified by State commissioners to be solvent but which had very slight prospects of making sufficient earnings to maintain their solvency. Some of these banks had virtually no net sound capital; that is, the assets exceeded only slightly, if at all, the deposit liability. The Federal Deposit Insurance Corporation and the Reconstruction Finance Corporation assisted these banks to build up their capital structure. It is highly important that these banks be protected against the adverse effects that would result from the organization and insurance of new banks in the same communities. In many of these communities a new bank would be certain to take away business from existing insured banks which are already not very strong and thus weaken both the insured banks and the insurance fund.

There are 10 States in which the minimum capital requirement for a new bank is as low as $15,000 and in some of the States there is already an obvious tendency to permit banks to be organized which have no prospects of permanent success. Unless the Corporation is enabled to take future earning prospects into consideration it may be required to insure a constant succession of banks which operate for a short time and close with substantial losses to the Corporation.

It is also highly desirable that the Corporation have power to take into consideration the convenience and needs of the community to be served by the bank. Changing conditions, such as improvements in transportation, shifting of industries and business concerns from one locality to another, and changes in the population and in the income of communities, may make the organization of new banks superfluous. Yet the constant attempt of individuals to enter the banking business is likely to result in the granting of corporate charters in such communities, particularly those in which a part or all of the banks in existence a few years ago have disappeared. To give the Corporation power to consider the convenience and needs of the communities will be of material aid in preventing a return to the overbanked condition of the 1920's.

The purpose of the last clause in the section on admissions, as originally introduced, is to enable the Corporation to refuse membership to institutions which are not in reality banks of deposit but which are primarily engaged in other types of business enterprise and receive deposits in connection with those enterprises.

Mr. CROWLEY. I should like also to include in the record a statement regarding examinations and liquidations. It is my judgment that if the Corporation is to be successful, then, where they have 70 percent of the deposited liability in the 13,300 banks out of 14,200, it is utterly useless for our Corporation to go into a bank after it has once been involved; that we should have the right to be called in, and to keep the banks sound, and not merely be called in to pay the losses.

Also, on the matter of liquidations of the banks that have closed today, we are the largest creditor, to the extent of 85 percent of the banks closed up to this time.

Senator BULKLEY. Do I understand that you want to have the power to take over a bank, without closing it?

Mr. CROWLEY. We want the power of buying assets in an open bank, and we want also to have the power—which is given to us in the temporary act, and also in the present, permanent act—to liquidate assets of the closed banks that we pay off, in order that we may control the assets of the closed banks.

Senator BULKLEY. That was in the draft of the bill?

Mr. CROWLEY. That is correct; and I simply just wish to add my testimony as to why that should be left as it is.

Senator BULKLEY. That was not stricken out in the House bill?

Mr. CROWLEY. No, sir.

Senator TOWNSEND. The Comptroller rather favored that in his testimony. And I think that if these men are to pay the bills, there is a strong argument in favor of their controlling the assets.

Senator BULKLEY. The question, then, is whether you should control it, or whether the Comptroller's office should control it?

Mr. CROWLEY. Under the temporary act and under the bill which is before you, the Comptroller, in the case of a closed national bank, must appoint the Federal Deposit Insurance Corporation as receiver.

Senator BULKLEY. I see.

Mr. CROWLEY. Also, we have requested the various State legislatures to pass legislation providing that their State banking departments may appoint us receivers; and I believe that in some 30 States, we have had favorable response.

Our argument is that we have the liability, and consequently those assets should be handled by us because we are the ones who must get the recovery from them; and in practically every instance, we are liable for at least 70 percent of the deposits of these banks.

I should like to include that statement in the record, if there is no objection.

Senator BULKLEY. All right; that may go in the record.

Mr. CROWLEY. That is all I have, Senator Bulkley; and I appreciate your courtesy.

Senator BULKLEY. Very well; thank you, Mr. Crowley.

(The above-mentioned statement is as follows:)

There are three powers which we consider to be indispensible to the ultimate success of deposit insurance: The first is the power to refuse to admit banks into the insurance fund which are fundamentally unsound and, therefore, certain to develop into losses; the second is the power to examine insured banks; and the third is the power to liquidate insured banks which become insolvent.

During the period of 18 months ending December 31, 1934, over 2,200 banks were licensed to do business. About 1,500 of these banks had less than $500,000 in deposits and about 400 had less than $100,000 in deposits. The country as a whole would have been much better off had many of these banks not been licensed. It indicates a tendency to return to the overbanked condition of former years. Of the banks licensed in 1934, well over a hundred were primary organizations having no previous existence as distinguished from institutions which took over the business of other banks.

The indiscriminate rechartering of banks which have no economic justification will again return the country to the overbanked condition which existed in 1920. Unless checked, the security of the insurance fund as well as the banking system at large will be seriously jeopardized. The board of directors

of the Insurance Corporation should be given the power to refuse the benefits of insurance to banks which are not now in the fund where the applying bank cannot ever develop a volume of deposits sufficient to permit earnings which will cover expenses and current losses.

We recommend that before a bank is admitted to the insurance fund thorough consideration be given to the history, future prospects, and management of the bank and the economic needs of the community where it proposes to engage in business. We believe these to be the determining factors in the ultimate success of a bank as an economically sound institution. In the interest of protecting the funds of the Corporation, these important factors should be given consideration and the board should be permitted to accept or reject an application for insurance depending upon the result of its analysis of the facts in this respect.

The next power which we consider to be necessary to safeguard the solvency of the Corporation is the power to examine insured banks.

Seventy percent or more of the total deposit liabilities in over 13,300 of the 14,200 insured banks are now protected by insurance. In other words, in over 94 percent of all insured banks the Corporation's risk is at least equal to 70 percent of the total deposit liabilities of these banks and in a large majority the Corporation's liability as compared to the total deposit liability of the banks is even greater.

Included in these banks, each of which is 70 percent or more insured, are 92 percent of all national banks, 81 percent of all State member banks and 98 percent of all State nonmember banks. The liability of the Corporation in all insured banks is estimated to be well in excess of $17,000,000,000. The direct liability of the Corporation to the depositors in these banks is more tangible than any responsibility which has heretofore existed in any Federal or State supervisory authority. Bank supervisory officials are charged with the duty of enforcing compliance by banks with the statutory requirements imposed by the laws. It is the duty of these officials to require banks to correct impairments of capital, to place in liquidation insolvent institutions, and, in many instances, to supervise liquidation in the interest of depositors. With the performance of these functions their responsibility ceases. No supervisory official is required to make good dollar losess.

The Federal Deposit Insurance Corporation, on the other hand, is in the position of a guarantor for every insured bank. Since the Corporation must supply to every depositor in a closed insured bank the amount of his insured deposit, it must be concerned (in the interest of conserving its funds) with protecting itself against bank failures. The most important instrument available for effectuating this protection is the right of examining insured banks. Only by giving the Corporation the free exercise of the right to examine banks can the directors of the Corporation hope adequately to discharge their responsibilities.

We have recently concluded a period of unprecedented bank failures. It is of singular importance that of the 13,500 banks which failed during the 14-year period ending December 31, 1934, over 11,000 were State banks. There are many reasons inherent in the system which operate toward the lowering of standards of the bank supervision which State supervisors exercise. We are not concerned with this aspect of the problem. However, we believe it would be a serious mistake to jeopardize the solvency of the Insurance Corporation by obliging it to accept the examinations made by State agencies, many of the interests of which are at times inconsistent with those of the Insurance Corporation. It is the Corporation which ultimately bears the losses which may often be the consequence of inadequate examinations. It would seem administratively unsound, therefore, to separate from the Corporation the right of examination. To oblige the Corporation to depend upon examinations performed by State supervisory authorities will not be in the interest of preserving the solvency of the fund.

Included by law as insured banks are all national banks and all State banks which are members of the Federal Reserve System. National banks are examined by the Comptroller of the Currency, while State member banks are examined by the Federal Reserve Board. However, as to insured State banks which are not members of the Federal Reserve System, Congress provided that the Corporation should have the right of examination. As a consequence of these provisions the Corporation has been engaged during the past 18 months in examining State nonmember banks in every State in the Union. On December 31, 1934, there were 5,462 national banks, 980 State banks members of the

Federal Reserve System, and 7,699 State banks not members of the Federal Reserve System. The Corporation now examines more banks, therefore, than does either the Federal Reserve Board or the Comptroller of the Currency, or both together.

The Corporation has now formulated a working program for the conduct of its examinations in cooperation with State supervising authorities. It is an established practice for the examinations of the Corporation to be conducted jointly with examinations by the State officials. In some States State officials accept these examinations of the Corporation in lieu of their own examinations. Copies of examination reports made by the Corporation are furnished to the bank and the State supervising authority, and to the Reconstruction Finance Corporation where the latter corporation has a capital investment. Constant contacts have been maintained with State authorities and the insured banks, with the result that a vast amount of constructive work in improving the condition of these banks has been achieved. In some instances examiners are detailed to confer with the officers of the bank in a friendly capacity for the purpose of offering constructive and intelligent assistance to the bank in disposing of any problems which may exist. This has enabled the Corporation greatly to strengthen the position of many banks. The figures evidencing the vast amount of progress which has been made as a result of the examinations of the Corporation are given elsewhere in the testimony. They give striking evidence of the constructive potentialities of examinations and of the importance of this activity to the Corporation.

Constructive results which may follow from a thorough and competent examination constitute the most potent single instrument which might be given the Corporation to reduce loss through bank failures. Examinations of sound and well-managed banks accomplish much toward the continuance of these banks in good condition. The examination of banks which are on the border line of bad management or insolvency is essential in order that weaknesses may be pointed out to the officers and in order that their attention may be directed to approaching trouble. Examination of banks which have already become insolvent is essential in order that supervising authorities may be advised and in order that they may be persuaded to close such institutions before the assets are depleted, and, consequently, before the losses which the Corporation will be obliged to assume are magnified. The practical supervisory powers which are implied in and which follow from examinations are essential to the continued success of the Federal Deposit Insurance Corporation.

In addition, it should be pointed out that through deposit insurance over 90 percent of all commercial banks are now embraced in one Nation-wide system. The insurance fund is in many ways a mutual undertaking. All insured banks contribute assessments in proportion to their deposit obligations, and to this extent all insured banks are concerned with the losses which the Corporation will be obliged to assume. It is only fitting, therefore, that all insured banks should be subjected to the same standards of examination. Examinations conducted by 50 different examining authorities preclude the possibility of uniform standards.

Since it is not practicable to assess banks at varying rates for the benefits of insurance, which rates presumably bear some relation to the degree of risk involved, it is important that all banks be subjected to uniform standards of examination, in order that an effort may be made to keep all banks on a uniformly sound basis. This is the only way in which the Insurance Corporation may undertake to prevent what may otherwise be discrimination against those banks which operate most soundly. In order to minimize discrimination against the better-managed banks (those in which the Corporation's ultimate risk factor is at a minimum), the Corporation should do everything within its power to improve the condition of those banks which are badly managed (or in which the Corporation has a high degree of risk). The Corporation can only undertake to improve the standards of management of the weaker institutions, if it is given the right of examination.

Federal deposit insurance is a new development. It is still in an experimental stage. We have had a mere 18 months of experience. That experience has shown us that the right of examination is the most useful and most constructive activity upon which the Corporation has engaged in order that it might preserve its funds and keep losses through bank failures at a minimum. Much remains to be done toward the improvement of the banking situation. It is singularly true that progress has been made. We will continue to make progress, if the right of examination is left with the Corporation.

The right of the Federal Deposit Insurance Corporation to act as receiver of insured banks where it is compelled to pay off the depositors is a right of major importance. Congress recognized this in the original law by requiring the Comptroller of the Currency to appoint the Corporation receiver of every insured national bank which closed.

It also authorized the Corporation to act as receiver or liquidating agent of any insured State bank which closed, if the appointment is tendered by the State authority having charge of the liquidation.

It is now possible for the Corporation to act as receiver or liquidating agent of closed insured State banks in 30 States. In 13 of these States the right is accorded by express provisions of a legislative act, and in the remaining 17 the existing law was interpreted as permitting the appointment.

The Corporation has submitted to the responsible authorities of every State a bill to permit it to act as receiver or liquidating agent for consideration of its legislature and has urged the passage thereof by the State legislatures.

The right of the Corporation to act as receiver of national banks should not be changed back to the old system of allowing the Comptroller of the Currency to appoint individual receivers who are to be responsible only to him. If this is done, it will cause the States to go back to the old system also. The States cannot consistently be asked to appoint the Corporation receiver where this right is taken away in respect to national banks.

On December 31 insured national banks had total deposits of $21,600,000,000. Insured State banks (Federal Reserve member and nonmember banks) had total deposits of $17,400,000,000. Or, in other words, all State banks had approximately 45 percent of the total deposits in all commercial banks. As has already been shown, the present maximum limit of insurance fully covers 70 percent or more of the deposits in 94 percent of all insured banks. More than 43 percent of the deposits of all insured banks are protected. Thus when the Corporation pays out the insured deposits of these banks, it will become the largest creditor by an overwhelming margin in approximately 9 cases out of 10, and in the remaining 1 case out of the 10 will be the largest single creditor, with from 30 percent to 40 percent of the bank's liabilities owing to it.

In view of its tremendous investment in these closed insured banks, the Corporation must have the right to supervise the liquidation of their assets.

In the preinsurance era the interest of local people who had their deposits tied up in these assets supplied the necessary check on the receivers in charge of the liquidations and the debtors who owed the trust money. Now, that is changed, and unless the Corporation is given charge of the liquidations it will be compelled to stand by while receivers do the job to suit themselves. Protracted receiverships will result because the receivers will not have any incentive to work themselves out of jobs. Unnecessary delay not only increases the expense of liquidation but cuts down the returns because of the well-known fact that the older a claim becomes the more difficult it is to collect.

That the creditors primarily interested in the outcome of a liquidation should have the first voice in conducting it is a well-established principle of law. The bankruptcy law provides for the election of a trustee to liquidate the assets of bankrupt estates by a majority in number and amount of the bankrupt's creditors.

Furthermore, the courts, in appointing receivers, frequently appoint the nominee of the principal creditors or set a time for hearing at which creditors may present their recommendations.

As already stated, the laws of 13 States expressly authorize the appointment of the Corporation as receiver of insured State banks. These States recognize this principle.

The selection of the Corporation as receiver will tend to reduce the expense of liquidation. The Corporation will be primarily interested in an economical liquidation because its average interest out of every dollar collected in the majority of cases will be 70 cents, which it will receive by way of dividends on the claims of depositors paid by it. Protracted receiverships will be avoided because of the expense involved. On the other hand, owing to the wide-spread interest of the Corporation as insurer of banks in every community in the country, the Corporation will liquidate in such manner as not to damage the credit structure of the community. The Corporation is gradually building its liquidating staff by training its own liquidators and will gradually absorb available men of experience and ability now engaged in liquidation work with National or State banking departments.

A large portion of the work preliminary to actual liquidation must be done by the Corporation, whether it acts as receiver or not. This work is done in preparing for paying off the insured depositors. The Corporation prepares a complete record of all of the deposit liabilities of the bank and secures claims from the depositors covering the amounts of their respective balances. In several cases where this Corporation has paid the insured deposits of closed State banks the State law did not permit the Corporation to act as receiver or liquidating agent. The result was that all work of the foregoing character was duplicated by State officials, and the depositors were compelled to prove their claims, not only with the Corporation but with the State officials also.

In addition, in order that it may be properly informed as to the progress of the liquidation under the supervision of the State receiver, the Corporation makes an inventory of all of the bank's assets, determines the valuation thereof, and estimates its loss, in accordance with the requirements of the Banking Act of 1933. In national banks, the Corporation now acts as receiver and in such cases all of the foregoing records are available for use of its liquidating agents, thereby eliminating a vast amount of preliminary work and expense.

Senator BULKLEY. Senator Barbour and Senator Moore are here, with some gentlemen from New Jersey.

Senator BARBOUR. Mr. Chairman and members of the committee, in conjunction with my colleague Senator Moore and the New Jersey delegation in the House, we have had a number of conferences with bankers from the State of New Jersey; and the banking fraternity of our State has designated the following committee to come before you gentlemen and to discuss our ideas with respect to the pending bill.

The committee consists of the following gentlemen: Mr. William J. Field, Commercial Trust Co. of New Jersey, of Jersey City; Mr. F. C. Ferguson, Hudson County National Bank, of Jersey City; Hon. Edward C. Stokes, of Trenton, former Governor of the State; Mr. Harry H. Pond, of Plainfield; Mr. F. Morse Archer, of Camden; and Mr. Spencer S. Marsh, of Newark.

Mr. Field would like to testify on titles I and III, and Mr. Ferguson would like to testify regarding title II. So we should be pleased if the chairman would call either one of these two gentlemen.

Senator BULKLEY. Do they represent the State Bankers' Association?

Senator BARBOUR. Yes; they do.

Senator BULKLEY. Very well. It does not matter who speaks first; we shall leave that to their preference.

Senator BARBOUR. I would suggest, then, Mr. Chairman, that Mr. Fields speak first, and then have Mr. Ferguson follow, if that is agreeable to you.

STATEMENT OF WILLIAM J. FIELD, PRESIDENT OF THE COMMERCIAL TRUST CO. OF NEW JERSEY, JERSEY CITY, N. J.

Mr. FIELD. Mr. Chairman and gentlemen, I represent the New Jersey Bankers' Association, and my job is to ask you to reconsider some of the suggestions in title I and III of the bill.

Senator TOWNSEND. As written in the Senate or the House bill as passed?

Mr. FIELD. The original bill and some of the proposed amendments of the House.

Senator BANKHEAD. With what bank are you connected?

Mr. FIELD. The Commercial Trust Co., of Jersey City.

Senator BANKHEAD. You are the president of that bank?

Mr. FIELD. Yes; the president of it.

Presuming the probability of titles I and III of the Banking Act of 1935 being enacted at the present session, and also the possibility of the Congress enacting title II, we wish to take this opportunity of bringing to your attention several sections of the bill which we believe should either be modified or clarified.

The following suggestions apply to title I of the proposed law.

Section 12B of the Federal Reserve Act is further amended, paragraph 23Y, to provide that all State nonmember banks must become members of the Federal Reserve System by July 1, 1937, or discontinue membership in the Federal Deposit Insurance Corporation.

One of the requirements at such time is assets, in excess of capital requirements, adequate to meet liabilities to depositors and other creditors.

The rule adopted by Government financial authorities—Federal Reserve bank, Federal Deposit Insurance Corporation, and Reconstruction Finance Corporation—for adequate capital is the 10-to-1 rule; that for every $10 of deposits there must be $1 of capital assets.

Section 308 is amended to require banks to have a surplus of 20 percent before opening for business.

These sections may mean rulings to the effect that nonmember State institutions, when joining the Federal Reserve System, in order to qualify for insurance with the Federal Deposit Insurance Corporation, must have good capital assets of at least 10 percent of deposits, of which the surplus fund shall be at least 20 percent of the capital.

Our fear under this situation is that when we consider the unreasonable value of assets by some of our banking supervisors, many of the present nonmember State institutions will be unable to meet these requirements.

To refuse them membership in the Federal Reserve System, and thus place them in a position where they would be obliged to advise their depositors they were no longer an insured bank, would, under existing conditions, result in many such banks closing their doors. Again, to start closing banks would undoubtedly cause serious trouble in the general banking situation.

We believe this situation has been considered by the House, and the bill amended to eliminate compulsory membership in the Federal Reserve System, leaving qualifications for membership in the Federal Deposit Insurance Corporation to the discretion of the Federal Deposit Insurance Corporation. While membership in the Federal Reserve System may eventually be highly desirable for all insured banks, it is our opinion that for the next few years many State banking institutions will be unable to make the grade for such membership.

Under this same section, 12–B, in paragraph 8–H 1 and 2, it is provided "that each insured bank shall be assessed at not to exceed one-twelfth of 1 percent—since increased to one-eighth of 1 percent—of its total deposits based on the average, determined from such total as of the close of business on the last day of June and the last day of December of each year."

Further on in this section, it is provided that on or before the 15th day of July of each year, each insured bank shall file with the Cor-

poration a certified statement under oath showing the total amount of its liability for deposits as of the close of business on the 30th day of June last preceding, and shall pay to the Corporation the portion of the annual assessment equal to one-half of the annual rate. This same wording applies to the assessment for the last half of each year.

Our presumption is that the intent of this wording is to assess banks on their average deposits for each 6 months, according to statements prepared of such average as of June 30 and December 31 of each year, and we ask that this part of the bill be clarified so there will be no question that the assessment will be made against such average deposits.

It would not be fair or reasonable to the banks to assess them on total deposits as shown on these particular days, and disregard average deposits, for the reason that many banks pay dividends and interest for depositors on July 1 and January 1 from deposits made a few days prior to such dates by corporations, counties, cities, and so forth, and really have no investment use of such funds. The cost of premiums for insurance of such deposits would be prohibitive. It would be necessary for banks to refuse such deposits, and such refusal would case much disturbance in the orderly distribution of income.

The House amendment has endeavored to clarify this section by showing it is clearly the intent to make premium assessments on average deposits. However, the method of determining such average, as suggested by the House amendment, is neither fair nor equitable. They suggest the amount to be assessed for each 6 months, be determined by selecting three arbitrary dates during such period, and averaging the deposits of such dates. How the dates are to be selected is not determined and they may well be selected from a hat. Should January 1, March 30, and June 30 be selected, the banks would show deposits much in excess of their true average.

A simple and true method of determining average deposits would be to average the daily deposits for 6 months' periods ending June 30 and December 31. This method would give the average of actual deposits; and as each bank has records so prepared, this would simplify the work for the banks.

When figuring these deposits, to arrive at the basis of assessment, it would appear fair and reasonable to permit a deduction of all deposits that are otherwise insured or secured: Bankruptcy funds, deposits by a trust department of the depository bank, postal savings funds, Federal Reserve moneys, and other Government moneys. These moneys are all secured by insurance or by the bank's securities, and the Federal Deposit Insurance Corporation would not have to be considered for payment. If you will consider, for instance, the deposits of postal savings: Banks now have to secure such moneys with a deposit of securities and at the same time pay a prohibitive rate of interest on them. If such deposits had to be included in the average the Government would soon be without a depository bank.

It is further provided in this section that a separate rate of assessment may be fixed for mutual-savings banks.

We ask your consideration of this situation, as we believe that if any different rate of assessment is made on deposits of savings banks,

such rate should apply to time or savings deposits in National and State bank and trust companies. Deposits should be classified as to insurance rates rather than the kind of banks having such deposits. Savings banks are all State institutions, and each State has different laws governing savings.

All of the several kinds of banking institutions are in competition for savings deposits, but many savings banks are not insured by the Federal Deposit Insurance Corporation; and as time elapses comparatively few savings banks will be insured. In New Jersey we have a savings institution with capital stock. This institution is organized under a special charter and is partly mutual. It would be difficult to classify such a bank under the proposed law.

The assessment of the Federal Deposit Insurance Corporation at the maximum rate permitted is a very serious charge on the earnings of a bank, especially in these times of exceptionally low interest returns from proper investments. And if this rate should be assessed on savings or time deposits of all commercial banks, the result would be a higher cost for such money and a consequent lessening of the safety of investments in order to obtain additional income or a reduction of interest rates on such deposits.

Senator GLASS. Do you think that all mutual-savings banks go into the insurance-deposit fund?

Mr. FIELD. Not if they are well located. If they are located near banks that are on the verge of being upset it might be reasonable for them to go in.

Senator GLASS. As a matter of fact, have they not, almost en bloc, determined not to go in?

Mr. FIELD. Yes; many of them have. And I think that as time goes on many of them will get out.

Senator TOWNSEND. Are you speaking of the insurance or of the Federal Reserve?

Mr. FIELD. Insurance.

Senator GLASS. Yes; insurance.

I say that the mutual-savings banks, almost en bloc, have declined to go into the insurance fund. And they ought to have declined, and they ought to stay out.

Mr. FIELD. If the deposits of a savings bank are not insured, or, if insured, are assessed at a lower rate than similar deposits in commercial banks, such savings bank can naturally pay more interest than commercial banks, and thus enter into unfair and unwise competition.

The House has endeavored to make a distinction between "savings banks" and "mutual-savings banks." In some States, there may possibly be a slight distinction, but there is very little difference. And when you consider the savings departments of national and State banks and trust companies, the very little difference still applies. This endeavor to make these fine distinctions, will only lead to confusion and unfairness.

We ask that all such deposits, regardless of the kind of depository, be assessed at the same rate.

Now in regard to an assessment of the limit permitted; that is, one-twelfth of 1 percent per annum, and now increased to one-eighth of 1 percent, it will undoubtedly be found that this rate is excessive insofar as the general funds of the Federal Deposit Insurance Cor-

poration are concerned, and will be prohibitive insofar as many banking institutions are concerned. For instance, as to the funds of the Federal Deposit Insurance Corporation, there should be practically no loss or depletion of the amounts contributed, and consequently there should be a limit to the proposed accumulation of surplus.

When an insured bank fails and the Federal Deposit Insurance Corporation is called upon to pay insured deposits, the Federal Deposit Insurance Corporation takes over all assets of such closed bank and is reimbursed from the liquidation of such assets.

It would be difficult to find many banks whose total deposit liability would be insured, because of all its deposits being for $5,000 or less. Consequently, the margin of assets covering deposits over $5,000 per depositor, plus capital and surplus liabilities, or what is left of them, should always insure the Federal Deposit Insurance Corporation against ultimate loss.

The House suggests that depositors having on deposit, in a closed, insured bank, an amount in excess of $5,000, should share pro rata in recovery from the assets of the closed bank. This, of course, will somewhat reduce the margin of safety of the Federal Deposit Insurance Corporation, but is certainly an equitable arrangement.

An investigation of assessments already made on insured banks will disclose that most good banks paid such assessment from reserves and did not accrue the amount as a charge against current income. Many other banks—and there are many—are carrying the amount as an asset, which, of course, is a doubtful and unsafe procedure. Subsequent assessments should naturally be paid from earnings; and earnings will show, in many cases, an inability to meet the assessments.

The Government, through the R. F. C., has endeavored to safeguard many banks by increasing their capital with preferred stock. Many find it difficult to service such preferred stock with present earnings. Where such banks will obtain money to meet Federal Deposit Insurance Corporation assessments is a very serious question and one to which you gentlemen should give your earnest consideration.

The House has changed this rate of assessment from one-twelfth of 1 percent to one-eighth of 1 percent, or from $833.33 per $1,000,000 of deposits to $1,250 per $1,000,000, and has eliminated the provision that assessments shall not be less than such rate. It would seem reasonable to give the Federal Deposit Insurance Corporation power to assess at a smaller rate, if, in their judgment, the circumstances warrant such action.

In this same section of the bill, paragraph 22–6, there is provided that the Federal Deposit Insurance Corporation, after the examination of a member bank, may make certain recommendations to such member; and failure to comply with such recommendations gives the Corporation power to publish any part of the report of such examination of any bank other than a national bank.

We cannot see why all banks should not be considered on a like basis in this contingency, and why there should be an exception in the case of a national bank. But we further believe that even if there were no exceptions, the publication provided for might work

material harm, and should be eliminated. A proper system of fines might be much wiser in such cases, and would avoid publicity.

A situation to be considered under title I is the question of insuring deposits of beneficiaries of trust estates. Under the present law banks are required to report all insured deposits; and each beneficiary is safeguarded to the insured limit.

Under the proposed law a trust estate, as such, is insured to $5,000, regardless of the number of beneficiaries, although banks are required to pay an assessment on total deposits.

It is impractical for executors and trustees to break up an estate so as to deposit separate amounts according to the number of beneficiaries interested. It is our suggestion that this situation be modified so that each beneficiary will be protected up to the insured limit.

We are firmly of the opinion that insurance should be based on the amount insured, and that each bank should pay for the insurance benefits which it receives; in other words, we believe that the larger and better banks should not be asked to pay for insurance on deposits in smaller institutions. This result is not accomplished when total deposits are assessed instead of actual insured deposits. This charge is a socialistic principle with which we are not in accord and against which we enter our sincere protest.

Title II of the act provides mostly for a clarification of many moot questions, and insofar as we have been able to study it we believe it should be favorably considered.

There is one paragraph which should be further considered from the standpoint of the time limit imposed. We refer to the matter of loans made prior to June 16, 1933, to executive officers. The act permits the extension of such loans to 5 years from June 16, 1933.

This situation would be better safeguarded if such loans might be extended for 5 years beyond the date of enactment of the proposed law. Many of these loans to executives are secured by bank stock and mortgages which in all probability will take at least 5 years to show any substantial recovery. Such loans cannot be removed to other banks, and the time allotted is too short to permit orderly liquidation without damage to the borrower and the lending bank. As new loans of this kind are prohibited, it is only reasonable to grant ample time to clean up the present situation.

Gentlemen, we hope that you will give heed to the request of the New Jersey bankers. We think that we are practical people. We want to help this new legislation, and we should like very much to see titles I and III passed—of course, with the modifications we have suggested.

We think it is very important to the country that title I, especially—the Federal Deposit Insurance Corporation—should be set up properly, and the amounts limited so that they are within reason, and are within reach of the banks.

Under the R. F. C. the banks have been taking much preferred stock. I am a member of the New York advisory committee of the R. F. C., and I have seen many cases where they cannot service the preferred stock. This large assessment—and the assessment coming regularly every year—will put many of those banks out of business. They cannot stand the pressure. It must be either a lenient assessment, or they will be put out of business.

Senator BANKEAD. I notice that you are especially interested in titles I and III.

In the event that title II is not retained in the bill, do you advocate defeating the bill?

Mr. FIELD. No.

Senator BANKHEAD. Then, if title II is put in, you oppose the whole bill?

Mr. FIELD. I think that title II should be eliminated. If title II is retained, we oppose the whole bill. Title II is so radically out of order that we do not stand for it for a minute.

STATEMENT OF FRANK C. FERGUSON, PRESIDENT HUDSON COUNTY NATIONAL BANK, JERSEY CITY, N. J.

Mr. FERGUSON. My name is Frank C. Ferguson. I am president of the Hudson County National Bank, Jersey City, N. J., and chairman of the committee on Federal legislation of the New Jersey Bankers' Association, in which capacity I appear before this committee to speak on title II of the proposed act.

Senator GLASS. On title II?

Mr. FERGUSON. On title II.

I approach this subject with a considerable amount of trepidation, because I want to say at the outset that I do not pose as an expert on money or credit currency. The views that I am going to express in this memorandum, which has also been submitted to the executive committee of the New Jersey Bankers' Association, are based on the theories which I learned in school 25 years ago, and which 25 years of active commercial banking experience have not caused me to change.

I might also add, before I start on the memorandum, that the views which I am going to express in this memorandum are much better expressed in the writings and teachings of such men as Dr. Kemmerer, of Princeton; H. Parker Willis, of Columbia; Walter E Spahr, of New York University; and Dr. Sprague, of Harvard.

With your permission, I shall proceed with my memorandum.

Title II of the proposed banking bill of 1935 contemplates fundamental changes in our money and banking systems and is the most important division of the bill.

There are, unquestionably, serious weaknesses in our money and banking structures, as our experiences during the past years have shown us. Legislative steps should be taken to eliminate the known defects and to provide the Nation with the proper type of money and banking systems. However, such legislation, affecting the most vital and important cog of our economic system—our money and banking mechanism—should be the outgrowth of a careful, deliberate, and impartial study, and analysis of our money and banking problems should be conducted by our most competent experts.

The last great banking legislative step undertaken by this Nation was the present Federal Reserve System. The Federal Reserve Act was the result of years of study—conducted by Congress, banking associations, industry, economists, and others—of the banking systems of the world and of our money and banking problems.

The present situation may well be compared to the situation which existed before the passage of the Federal Reserve Act. Then, as

now, we knew that our monetary and credit machinery was in need of overhauling and reconstruction, but how to accomplish this and to make the changes fit the needs of business and commerce was and is the problem. Any meddling with our monetary and credit systems may have serious effects on our business life and may aggravate the present evils. Changes in our monetary and credit systems, such as may be accomplished by title II of the Banking Act of 1935, should be made only after the most careful and painstaking inquiry conducted by a nonpartisan monetary commission—composed, as suggested by Dr. Walter E. Spahr:

> First, of those members of the Senate and House Committees on Banking and Currency who have devoted years to the study of problems of money and banking;
>
> Second, of the most outstanding and experienced economists and professors of money and banking in our leading universities—men whose reputation, intellectual integrity, and capacity are beyond question;
>
> Third, of outstanding bankers who are men of experience, maturity, and social vision; and
>
> Fourth, other students of money and banking, drawn from other fields of activity, if they are recognized as thorough students of money and banking problems.

An impartial analysis of title II reveals most conclusively that it does not contain the solution for our problems. Title III would make possible political control and consequent possible manipulation of the banking mechanism of the Nation. The bill, in this title, also provides for drastic changes in the basis of issuance of Federal Reserve notes, throws wide open the rediscounting and advancing powers of the reserve banks, increases the emergency powers of the Federal Reserve Board with respect to required reserves, and lets down the bars considerably with respect to the mortgage-loan powers of national banks.

aragraph 3 of section 203, because of its provisions will inevitably—despite all protestations to the contrary—bring about political control of the Federal Reserve Board. It states—

> that of the six appointive members of the Board, one shall be designated by the President as Governor and one as Vice Governor of the Federal Reserve Board, to serve as such until the further order of the President * * *. The term of office of the member designated as Governor shall be the period during which he shall continue as Governor and, upon the termination of his designation as Governor, he shall be deemed to have served the full term for which he was appointed."

Under the provisions of this paragraph the Governor of the Federal Reserve Board would hold office only at the pleasure of the President. He would, in effect, take office only by submitting an undated letter of resignation to the President. This provision would enable a President to advance any member of the Board to the governorship, remove him, and thus in a short time completely turn over the appointive personnel of the Board, despite the fact that the four appointive members, other than the Governor and the Vice Governor, are chosen for a term of 12 years.

Because of these provisions, the Federal Reserve Board will at all times be subject to residential control.

Paragraph 1 of section 203 provides that the President—

> shall choose persons well qualified by education or experience or both to participate in the formulation of national economic and monetary policies.

The result, as a consequence of paragraphs 1 and 3, may be that political expediency will be the prime consideration in the selection of the appointive members of the Board. These political appointees may be men of wide experience in banking and finance; nevertheless, they may have been appointed because their beliefs are compatible with those of the administration. The power of removal being at the disposal of the President, independent action by the Federal Reserve Board will not be possible, and thus membership in the Board will be restricted to those men who will fully comply with the wishes of the administration.

This section is the most dangerous section in the entire bill. It gives the political party in power the power to dictate the policies of the Federal Reserve Board—which Board, once appointed, should be absolutely free of political domination. The Federal Reserve System constitutes the central banking organism of the country. The governing body of the System, the Federal Reserve Board, has a position of the utmost importance in influencing the economic life of the Nation. Therefore, the independence of the Board should, if possible, be strengthened, and not weakened. It should be the main function of the Board to conduct the Federal Reserve System as "a neutral agent to finance commerce, agriculture, and industry" to the mutual benefit of all concerned. Since title II provides for a Federal Reserve Board which might become a political instrument, it is obvious that the independence of the Board is in jeopardy.

Senator BANKHEAD. Let me ask you, there, if there has ever been a time when they were not subject to the influence of the administration in power?

Mr. FERGUSON. They certainly have been subject to the influence in the last 10 years.

Senator GLASS. Yes; I can name a time when they were not: During the 8 years of the administration of Woodrow Wilson, he would not even have social contact with the members of the Federal Reserve Board for fear that it might be suggested that he was undertaking to influence the Board.

Senator BANKHEAD. My question, if the Senator will note, was not if there has ever been a time when they were not influenced, but when they were not subject to the influence.

Senator GLASS. Well, there were other times when they were not influenced in a political way, in any sense, as I recall. President Coolidge reappointed two of the Democratic members of the Federal Reserve Board during the term of his service as President; and although my contact with the Board may not have been as intimate as that of some others, I do not recall any instance in which President Coolidge ever sought to control the action of the Board, or to influence it in any respect.

Mr. FERGUSON. Section 201 provides the means by which the Federal Reserve banks would be brought under the control of the Federal Reserve Board. The most important feature of this section relates to the office of governor of the Reserve bank. It provides that the present offices of governor and chairman of the board of directors of each Federal Reserve bank should be combined. The governor, under the new act, shall be appointed annually by the board of directors of the Reserve bank, subject to the approval of the Federal

Reserve Board. He shall not take office until approved by the Board, and upon approval, he is to be designated by the Board as one of the class C directors of the Reserve bank. The governor is to be the chief executive officer of the bank, chairman of the executive committee, and "all other officers and employees of the bank shall be directly responsible to him."

The appointment of a vice governor for each Federal Reserve bank is to be made in the same manner as the governor. The vice governor may be appointed by the Federal Reserve Board as a class C director and, in such cases, he may be appointed deputy chairman of the board of directors. Class C directors, appointed by the Federal Reserve Board, shall hold office for a term of 3 years; but this does not apply to the governor's term, or to the vice governor's term if he is appointed a class C director. As stated before, these officers are to be appointed annually. Another requirement that class C directors must have been residents of their districts for at least 2 years, likewise does not apply to the offices of governor and vice governor. A class C director, other than the vice governor, may be appointed deputy chairman of the board of directors. The duties of the present Federal Reserve agent are to be performed by "such person as the Federal Reserve Board may designate."

The provisions of section 201, therefore, would bring the Federal Reserve banks under the complete control of the Federal Reserve Board, which, under the provisions of section 203, might become politically controlled. The executive offices of governor and vice governor will come under the direct control of the Federal Reserve Board because their tenure of office will depend upon the Board's approval. The powers and status of the board of directors of each Federal Reserve bank will be practically nil, because the senior officers of the bank will not be responsible to them. These boards will lose still more of their power, in that the rank and file of the Reserve banks will be directly responsible to the various governors. As a result, any political party in power, through the medium of setting up a subservient Federal Reserve Board—and which it would be able to accomplish without any difficulty—would not only be in a position to control the filling of the executive offices of the Reserve banks, but also the rank and file positions in these banks. In this manner the political party in power could use the Federal Reserve System and the Federal Reserve banks to its own advantage. It is evident, therefore, that better banking cannot and will not result from the provisions of sections 201 and 203.

Section 205, title II, proposes to create a new type of a Federal open-market committee. The new committee would consist of the Governor of the Federal Reserve, who is to be chairman of this committee; 2 members of the Federal Reserve Board, selected by the Board; and 2 governors of the Federal Reserve banks, selected by the governors of the Federal Reserve banks. With the exception of the Governor of the Federal Reserve Board, the terms of the members of this committee would expire annually. The two important duties of the committee would be:

First: "To consider, adopt, and to transmit to the Federal Reserve banks, resolutions setting forth policies which, in the judgment of the committee, should be followed with respect to open-market operations of the Federal Reserve banks", and,

Second: To "make recommendations to the Federal Reserve Board regarding the discount rates of the Federal Reserve banks."

Another important provision in this section is that the Federal Reserve banks would be required to conform their open-market operations to the recommendations of the committee.

The changes contemplated in this section can be better appreciated when one realizes that the present Federal open-market committee is composed of 12 members, 1 from each Federal Reserve district, and selected by the Reserve bank in such district. The present committee performs the same functions as proposed for the new committee, but its open-market recommendations are not mandatory, in that a Federal Reserve bank not wishing to participate in the open-market operations recommended may refuse to do so by filing notice with the Federal Reserve Board within 30 days of its decision.

This section would bring under the absolute control of the new committee the open-market operations of all the Federal Reserve banks. The committee, in turn, would come under the complete control of the Federal Reserve Board, because 3 of its members would be Board members and the remaining 2 members would hold office as Governors of their Reserve banks subject to the approval of the Board. If the Federal Reserve Board were to be an independent body, free from political influence, this section would be desirable, for it is highly desirable that a central banking system respond in its entirety to actions involving the adjustment of the rediscount rate or open-market operations.

Senator GLASS. But do we have a central banking system? My recollection of the history of banking legislation is that Congress very definitely rejected a central-banking system, and created a regional-banking system with the central-supervisory power here at Washington.

Mr. FERGUSON. That is so. But, of course, we approach that central-banking system through the regional banks.

Senator GLASS. Yes; but we have no central banking system. We have a regional-banking system with supervisory control by a central body, altruistic in its character, with no acquisitive considerations, whatsoever.

Mr. FERGUSON. You have a central-banking system under this proposed 1935 bill.

Senator GLASS. But I am talking about the existing system.

Of course, we have a central-banking system here, wherein the Government would control a central bank, and yet not own one dollar of proprietary interest in the banks that it proposes to manage.

There have been propositions for central banks to be owned by the Government; and that is one thing. But do you not observe that this bill sets up a central bank, to be managed by the Government, without the Government owning a dollar of proprietary interest in the banks?

Mr. FERGUSON. Yes; the member banks own the Reserve banks. May I go ahead?

Senator GLASS. Oh, yes.

Mr. FERGUSON. It is the function of a central banking system, such as the Federal Reserve System, through its open-market operations and the discount rate, to control the monetary and credit mecha-

nisms of the Nation for the mutual benefit of commerce, industry, and agriculture.

It is not the function of a central banking system to concern itself primarily with Government financing, as now exists and will be further encouraged by the provisions of this section and of the bill. This section provides the means whereby any administration, through a controlled Federal Reserve Board, can initiate such open-market operations as will suit its purposes. At the present time, through pressure from the Treasury, the Federal Reserve System is maintaining an easy money-market condition of an extremely artificial nature, to aid the financing of Government expenditures through the banks. Excess reserves have skyrocketed to record levels and, if this bill is passed, is there any reason to believe that an open-market committee, which might be subject to political influence, would undertake open-market operations to counteract the inflationary potentialities of the excess reserves?

Section 206 provides that, subject to regulations as to maturity and such other matters as the Federal Reserve Board may prescribe, any Federal Reserve bank may discount for any member bank, upon its endorsement, "any commercial, agricultural, or industrial paper", and may make advances to any such member bank secured by "any sound assets" of such member bank. This amendment would open the way toward converting our commercial banking system into a nonliquid noncommercial system. As this provision is intended to be permanent, it would in time make the Federal Reserve System a nonliquid system, when by all means it should maintain its liquidity if it is to properly function as a depository of the Nation's reserves.

Section 207 of the bill proposes to widen the scope of the System's open-market operations so that obligations fully guaranteed by the United States as to principal and interest may be purchased by the Federal Reserve banks without regard to maturities. Keeping in mind the proposed reorganization of the open-market committee, this section would enable the committee, possibly dominated by factors of political expediency, to force the Federal Reserve banks to increase their scope of purchases of "governments" and thus tend to become nonliquid. The import of this amendment and of section 206 will be more fully discussed in that section of this statement dealing with the proposed issuance of Federal Reserve notes under section 208 of the bill.

By means of section 208 the bill proposes, first, to issue Federal Reserve notes under such rules and regulations as a possibly politically controlled Federal Reserve Board may prescribe; second, to maintain the present reserve requirements of at least 35 percent against deposits in lawful money and at least 40 percent in gold certificates against Federal Reserve notes; third, to abolish the 5-percent redemption fund now maintained with the Treasurer of the United States; and, fourth, to permit one Reserve bank to pay out the notes of other Reserve banks, without any penalties. In general, this section would permit the issuance of Federal Reserve notes against the general assets of the Federal Reserve banks, which, under the provisions of title II, may well consist of mortgage paper, bonds, Government securities, and so forth.

Prior to the enactment of the Federal Reserve Act, the Nation's bank note and deposit currency did not meet the required needs of industry, commerce, and agriculture, and, as a matter of fact, proved to be detrimental. Bank notes, as represented by national bank notes, backed by certain issues of United States Government bonds purchased by national banks and deposited with the United States Treasury, did not permit elasticity of contraction or expansion insofar as the needs of business were concerned. The issuance of these notes was dependent upon the price of "governments" and the profitability of their use on the part of the national banks. Then, again, as the National Government reduced its funded debt, as it did between 1881 and 1891, the supply of bonds available for note-circulation purposes was seriously reduced. Because of these factors, national-bank-note circulation did not expand or contract as necessary. During periods of stress, when expansion of note circulation would be desirable to ease the currency strain, national-bank-note circulation would decline, because the price of "governments" would be so prohibitive as to make note issue unprofitable. And during periods of easy money conditions, when additional note circulation was not needed or warranted, national-bank-note circulation would increase because of the favorable price of "governments."

Senator GLASS. Even if the price of "governments" were not prohibitive, the extent to which bank notes might be issued was less than a billion dollars.

Mr. FERGUSON. Yes, sir; limited to the amount of "governments" out.

The failure of national-bank notes to expand and contract as needed, during the period prior to the passage of the Federal Reserve Act, tended to add to the inelasticity of our deposit currency. Other major factors tending to make the deposit currency inelastic were the prevailing system of scattered reserves and the lack of central banking facilities. The country was urgently in need of an elastic note and deposit currency which would prevent the money panics occurring with more or less certain regularity.

The enactment of the Federal Reserve Act remedied these defects in that it provided for the issuance of an elastic bank note—the Federal Reserve note—and, through a system of mobilized reserves and of rediscounting facilities, elasticity was imparted to our deposit currency.

The act provided for a note issue subject to both automatic and manipulative control. The automatic control asserts itself in the retirement of Federal Reserve notes through the maturing of the short-term self-liquidating eligible paper used as collateral for purposes of note issue. The manipulative check is operated through the medium of open-market operations by means of which the Federal Reserve System can expand or contract the supply of money outstanding. Deposit currency likewise became subject to these checks. So long as both note and deposit currency are issued against reserves and self-liquidating paper, which in turn, are based upon transactions that will by their nature pay off the loans which gave rise to the deposit or note currency, redeemability and elasticity are provided and inflation is avoided.

Senator GLASS. Right there, Mr. Ferguson, let me say to you that the manipulative aspect of Federal Reserve transactions was never contemplated by the proponents of the Federal Reserve Act. In the first place, at that time there were less than $200,000,000 of United States bonds available for purchase on the open market. I venture to say that there was less than $100,000,000 of United States bonds available for purchase in the open market. Therefore, any manipulative practice that might have ensued would have been accordingly circumscribed.

Mr. FERGUSON. Yes; limited to the buying of bills, and so forth.

Senator GLASS. Yes; but it was never intended that the open-market transactions of a Federal Reserve bank were to be made with a view to controlling credit. It was intended that it should be used to enable the Federal Reserve bank—any Federal Reserve bank—analogous to the transactions of the Bank of England; to enforce its rediscount rate, or to enable any given Federal Reserve bank, if it had a surplus of funds on hand, to make money enough to pay its overhead charges. For a long period of time some of the banks were not able to pay their overhead charges and to pay their interest to the member banks.

So that this manipulative aspect of the Federal Reserve banking activities was never contemplated.

Mr. FERGUSON. As a matter of fact, you framers of the Federal Reserve Act never contemplated Government financing, except where taxes failed to come in, and you temporarily loaned the Government money.

Senator GLASS. Oh, of course, we never did.

Mr. FERGUSON. May I go ahead?

Senator GLASS. Yes, sir.

Mr. FERGUSON. In the following passages Dr. Walter E. Spahr, the economist who predicts that inflation may be the result of a change in the rediscount base, has very ably described the economic consequences of issuing Federal Reserve notes against Government securities, mortgage paper, or nonliquid paper, which would be possible under title II:

> Inflation is always to be avoided because it is an extension of purchasing power, either in the form of paper money or credit, which is not secured by reserves or commodities that will liquidate it at the proper time; and this, of course, means losses for someone.
>
> Therefore when Federal Reserve notes are issued against bonds, the desired and appropriate feature of elasticity is destroyed, and the inflationary procedure is being followed. Elasticity is destroyed because there is nothing in the nature of the bond security which automatically liquidates the notes after the exchange transaction is completed. When such notes are issued against commercial paper they are an advance to business men who will, in 30, 60, or 90 days, sell goods, retire the paper lying behind the notes, and, consequently, retire the notes. Thus the notes effect the exchanges, which could not be completed for 30, 60, or 90 days, and then they disappear. When, on the other hand, such notes are issued against bonds, the exchange is completed, the notes remain outstanding, there is nothing in the nature of the transaction that remains to be completed, and there is nothing to take place which will retire the notes.
>
> Thus there is a net addition to the currency, the price level tends to be disturbed, the currency goes into circulation without any new wealth being produced to liquidate the notes, and the procedure, therefore, is inflationary. Bonds should represent a transfer of savings from the bond buyer to the bond seller, and the currency supply should remain undisturbed. But the issuance

of currency against the bonds has the effect of creating an additional supply of currency with no new creation of wealth.

As the Federal Reserve banks purchase bonds, by creating a deposit to the credit of the Government, a deposit currency is created which is inelastic and inflationary in nature. The banks receive the bonds and the Government receives the deposit. But the currency supply does not remain unchanged; it is increased by the amount of the deposit, less any reserve which might be needed. If there is a surplus of reserves, then there is a full net increase in currency, equal to the value of the bonds. If the withdrawal of deposits gives rise to the withdrawal of Federal Reserve notes, the effect is the same. There is a net increase in the Reserve notes without any additional reserves or commodities being created to liquidate them. This is an inflationary procedure and one that can continue as bonds are purchased until the reserves of the Federal Reserve banks are reduced to the legal limit. Thus the price level tends to rise against the available wealth.

Senator GLASS. Of what account is a reserve that is irredeemable in itself?

Mr. FERGUSON. Well, my old boss used to tell me that a reserve was something that you should use when you needed it.

"What is it for, otherwise?" he used to say.

Senator GLASS. But I am asking you, of what account is an irredeemable reserve? What is it for?

Mr. FERGUSON. It is used to create confidence in the depositors.

Senator GLASS. Under existing circumstances, it is merely psychological, is it not?

Mr. FERGUSON. Yes.

The assets held by the banks against these notes will not retire the notes automatically, and it is doubtful if any management group would force such a retirement. People pay higher prices for things not because there has been an increased production and a resulting increase in income but because of a defect in the currency itself. It is a depreciating currency, and the general public loses in the form of trading the existing goods at the higher prices because of a defect in the currency.

If an effort is made later to retire such a currency, it will be necessary for the Government to raise taxes to pay off the bonds. Taxes are a burden to all people and have a depressing effect. Thus additional burdens must be incurred as a means of retiring the currency which in itself caused the public losses.

The same line of reasoning is applicable to the creation of a currency against mortgage paper as an asset. Such paper should represent a transfer of savings from one group to another so that the currency supply will remain unchanged. And when the mortgage is paid off, it should be paid out of savings. Hence it is proper, within certain limits, to use savings deposits for investment in such paper. But if a commercial bank creates deposit currency against such investment paper, it is deflating the currency, because the currency is not self-liquidating, and it is inelastic for the same reason. When Federal Reserve notes are drawn into circulation as a consequence of the creation of deposits against such assets, the note currency becomes inflated and inelastic.

In connection with these considerations, especially when considering the relations of currencies to rising prices, it is very important to remember that there are two types of rising prices—the sound and the unsound. The causal factors in each case are different; the reactions of people to them are different; and the economic effects are different.

The sound rise in the price level is caused by business men, especially in the heavy industries, who find it profitable to expand their productive activities; the unsound rise in the price level is caused by the act of inflating, or of threatening to inflate, the currency. The sound rise in prices generates confidence because it is pulled up by a confident buying, which, in turn, rests upon an increased purchasing power derived from the increased production. The unsound rise in prices generates fears, and people rush to purchase—not because they have more income, or because there is more production or more employment—but because of fear of a depreciating currency. The sound price level leads to economic equilibrium and widespread prosperity. The unsound, caused by inflation, leads to disasters.

Section 208 would permit the Federal Reserve Board to change reserve requirements as it sees fit during periods of "injurious credit expansion and contraction." The question arises as to whether or not this power would be exercised wisely by a potentially politically controlled Federal Reserve Board, or if it would be used to aid the carrying out of administration policies. In the hands of an independent Board, this power to change reserve requirements would be desirable—as they would, theoretically, during periods of "injurious credit expansions", increase the reserve requirements; and, during periods of "injurious credit contraction", decrease the reserve requirements. However, this section does not satisfactorily solve the problem of reserves, in that the question would still exist as to whether or not the distinction between time and demand deposits should be maintained and as to whether or not the distinction between central reserve cities, reserve cities, and others, should be maintained.

Finally, title II proposes to eliminate geographical limitations on mortgage loans made by national banks, to increase the amount of such loans up to 75 percent of the property value, if the loan is to be amortized within 20 years, or up to 60 percent of the property value for a 3-year period, and to increase the aggregate amount of such loans to an amount equal to the capital and surplus of the bank, or 60 percent of the time and savings deposits, whichever is greater. In view of the fact that during the past years real-estate loans of a far more restricted nature have caused great losses for the commercial banks of the country, this section entirely disregards the disastrous experiences of the past with respect to such loans.

Haste should not prevail in the passage of title II. Under the Federal Reserve Act at the present time any emergency can be met. In the meanwhile a National Monetary Commission, as proposed earlier in this statement, should be formed to study our problems of money and banking; and then a bill should be drafted, based upon its conclusions as a result of its findings and observations. Such a commission may well include in its agenda the following:

First. How and why has the Federal Reserve System failed to function as a properly managed central bank should, and how can this situation be corrected?

Second. Why, if it is so, have the present reserve requirements proved to be inadequate, and how can this be corrected?

Third. The Nation has approximately 15,000 banks and 49 different State banking systems. Has our banking and monetary structure been weakened because of this; and, if so, what is the best practical solution?

Fourth. How can the complex and confusing money system of the Nation be simplified?

Fifth. Is there a need for a central mortgage bank?

Sixth. To what extent has business financing changed, and how can the commercial banks meet this change, if any, without sacrificing their soundness and liquidity?

Seventh. Consider the advisability of the creation of a permanent institution, along the lines of the present R. F. C., to make loans to banks on a long-term basis on their secondary reserves during periods of emergencies.

Title II of the proposed banking bill of 1935 does not supply the solution to these fundamental problems, and therein lies its defects. The title provides for Government control of the currency and credit mechanism. So it would not help to promote a sound business recovery because of its potentially inflationary provisions, and it will not tend to strengthen fundamentally the banking structure of the country.

Senator COUZENS. I was absent when you started your statement, Mr. Ferguson and, if you have answered this question, you do not need to repeat.

Have you expressed any views as to why the Federal Reserve System broke down or fell down in the late twenties?

Mr. FERGUSON. No; I have not. And I prefer not to.

Senator COUZENS. You prefer not to what?

Mr. FERGUSON. Express my views.

Senator COUZENS. Oh, I thought you said you did not have any?

Mr. FERGUSON. You asked me if I had expressed my views, and I said that I had not; no one had asked me.

Senator COUZENS. Do you have in mind what kind of a monetary commission ought to be set-up?

Mr. FERGUSON. Yes, sir; I shall read it again to you if you wish.

Senator COUZENS. No; I have to go to the Finance Committee.

Senator GLASS. Of course, there is a very serious question as to whether the Federal Reserve System broke down or has broken down at any period in its existence. There may be a question as to whether it was maladministered, but in my personal view, the System itself has never broken down. I think it has been badly administered at times.

Senator COUZENS. I recognize the fact that the Senator from Virginia is not on the witness stand. But I was wondering if the witness, Mr. Ferguson, could tell us in what manner he had observed this maladministration.

Mr. FERGUSON. No; I ducked the question, Senator.

Senator GLASS. I am not going to duck it, when it comes to the time to discuss this bill.

Senator COUZENS. That only raises the question in my mind; and it does not seem to be answered by the statement of this witness, or by anybody else whom I have heard so far: That, no matter what system you set up, how are you going to assure the proper administration, or the avoidance of maladministration?

Mr. FERGUSON. I think that a great deal of our trouble could have been avoided had we—at the outset of the panic—had some place where the banks could lay down their secondary reserves—what we call "secondary reserves"—which consist of bonds for which there was no market because of the condition of the exchanges; and also a place where, upon the exhaustion of those secondary reserves, we could lay down our mortgages. But we were obsolutely stumped; we had no place to go. Our available commercial paper was lower than it had ever been because business did not require any; and the Federal Reserve, until the passage of the Glass-Steagall Act, was helpless to help us out in an emergency.

Senator BULKLEY. Do you mean borrowing against assets, when you refer to "laying them down"?

Mr. FERGUSON. Yes, sir.

Senator GLASS. May I ask if there was no way in which the crash could have been prevented? I ask that question because Mr. Ferguson seems to suggest a remedy for the conditions after the crash and not before.

Mr. FERGUSON. Well, I think that it could have been very much mitigated, so far as the banks were concerned, if we had had some place where we could borrow on our assets which were not eligible at the Federal Reserve banks.

Senator BULKLEY. Those borrowings would have been at the then market price, would they not?

Mr. FERGUSON. I think they should have been very liberal in their allowance to the banks on those assets.

Senator BULKLEY. In an effort to maintain the prices that then existed?

Senator COUZENS. And that without regard to how much the banks had discounted for the Wall Street brokers?

Mr. FERGUSON. I hold no brief for the Wall Street brokers.

Senator COUZENS. No; they are not to blame. It is the banks which made the loans. And I am wondering whether, in view of that, the Government should provide some reserve on which you could unload your secondary securities.

Mr. FERGUSON. I do not know how to answer you, Senator. I had no loans to Wall Street brokers in my institution; but yet I would have been very glad to have a place, when they were running our institutions, where I could go and lay down my bonds or mortgages. But I had no place to go.

Senator GLASS. It seems to me that the question could be answered by taking the simple facts: That the banks should not have engaged in this riot of speculation; and, particularly, the Federal Reserve banks should not have permitted the facilities of the Federal Reserve banks to be used to encourage this riot of speculation.

And that difficulty—as it seems to me, at least—was cured by the Banking Act of 1933.

Senator COUZENS. May I suggest to the witness, if he can answer this question: That the Senator from Virginia says he thinks the difficulty was cured by the Banking Act of 1933. And may I ask—and not in any desire to go into the personal portfolio of the witness' bank—but could you enumerate the class of securities that you would have liked to have disposed of, or borrowed on, at the time of the crash?

Mr. FERGUSON. Yes.

Senator COUZENS. Will you please do so?

Mr. FERGUSON. Bonds of railroads, industrials, and public-utility corporations of the United States.

Senator COUZENS. What do you mean?

Mr. FERGUSON. Those listed on the stock exchange.

Senator TOWNSEND. You are speaking of bonds, now, are you?

Mr. FERGUSON. Yes; I am speaking of bonds.

And obligations of municipalities, created in financing tax payments.

After those had been exhausted, then we should have liked to have had an advance on our first mortgages, which we took under the National Banking Act, and in strict conformity with the National

Banking Act, but on which it was not possible to borrow a 5-cent piece.

Senator COUZENS. Could that occur again?

Mr. FERGUSON. My understanding is that the R. F. C. is a temporary institution.

Senator COUZENS. No; but I meant with respect to your discounting of the high-class first mortgage.

Is it likely that you would encounter that condition again, where you would want to borrow on them?

Mr. FERGUSON. Surely.

Senator COUZENS. Does not the Eccles bill provide that?

Mr. FERGUSON. I admit that there should be an agency—and I have stated it in the last paragraph of my letter suggesting a central mortgage bank—or a permanent R. F. C. where a bank can borrow on its bonds and can borrow on its mortgages.

But where I differ from the Eccles bill is that under the Eccles bill those loans on bonds and on mortgages can be made the basis of deposit currency or note currency.

Senator BANKHEAD. Under your suggestion, where would the R. F. C. or the central bank get the money to make the loans?

Mr. FERGUSON. My idea is that the R. F. C., a permanent institution, would sell its obligations, guaranteed by the United States Government, in the open market; and I would further provide that those bonds of the R. F. C., guaranteed by the United States Government, could not be purchased by any bank or by any Federal Reserve bank.

Senator GLASS. Let me ask you this question: What would you have done with your money if you could have borrowed on those notes?

Mr. FERGUSON. Paid it out over the counter to the throngs of depositors who came.

Senator GLASS. And would they have loaned it to brokers to increase the unprecedented brokerage loans—to gamble on Wall Street?

Mr. FERGUSON. No; I am talking about the days of the gold rush, when they took it home and put it in the old sock.

Senator GLASS. But I am talking about the days when the Federal Reserve System was supposed to have broken down, but when it had not been broken down, but its facilities were used for stock-gambling purposes.

Mr. FERGUSON. I am talking about a different time; and I thought the Senator was asking me about the days of the calls on the banks.

Senator GLASS. Yes; that was partly in my question.

But I am shocked that you want a politically controlled R. F. C., but do not want a politically controlled Federal Reserve Board.

Mr. FERGUSON. But I do not want a politically controlled R. F. C.

Senator GLASS. But the R. F. C., under the theory of you gentlemen, is a politically controlled body. So it shocks me that you want a politically controlled R. F. C.

And it also shocks me that the Government wants to run things that the Government does not own.

Mr. FERGUSON. I recognize the fact, Senator, that it is necessary that there be an appointing power.

Senator COUZENS. Yes.

Mr. FERGUSON. And that has to be in the President.

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What I should like to see, with respect to the Federal Reserve Board, is a bipartisan board appointed for a term of, let us say, 15 years, and the members of the Board removable only upon charges to be preferred for malfeasance, misfeasance, or nonfeasance, and heard on those charges.

And under those circumstances I do not care where you get your men; you can get them from any source. They feel secure in their office.

And, following your argument, I would make my proposed R. F. C. the same way.

Senator GLASS. What is the matter with the existing law?

Mr. FERGUSON. I am not kicking about the existing law.

Senator GLASS. As to the appointment of the Federal Reserve Board, has any member of the Board ever been removed by a President of the United States?

Mr. FERGUSON. Well, perhaps you will not think it impertinent of me if I ask you whether, under the existing law, in the past 10 years the Federal Reserve Board has been brought under the domination of the political party in control.

Senator GLASS. Of course, it has been brought. It has been absolutely dominated by the political party in control. But the law does not make it so. It is the violation of the whole spirit and intent of the law that has made it so.

Mr. FERGUSON. Well, Senator, under my plan, I want to remove it from politics, if I can—recognizing the fact that the President of the United States must "start the ball rolling" by making the appointments.

I want to keep these men in there, secure in their positions, regardless of what they do—provided they are not guilty of malfeasance, misfeasance, or nonfeasance—in the same manner that the members of the Supreme Court of the United States are kept secure in their positions.

Senator GLASS. Under the existing law the President of the United States cannot remove a member of the Board except for cause, in writing to the Senate.

Mr. FERGUSON. It seems to me that, within the last several weeks, I have read that it is contended that the President of the United States has the power of removal of Federal Reserve Board members.

Senator GLASS. Well, he has the power of removal for cause, in writing, to the Senate.

Mr. FERGUSON. I did not know that the President had to prefer charges against them.

Senator GLASS. Well, he does not necessarily have to prefer charges against them; he has to give his reason for the removal.

Senator COUZENS. Both the chairman, the Senator from Virginia, and the witness admit that the Federal Reserve Board has, in the past, been politically controlled; at least, the record so shows.

Mr. FERGUSON. I did not say that; that is going too far.

Senator COUZENS. Well, the question you asked the Senator from Virginia inferred that, at least.

Senator GLASS. I do not mean that it has been politically controlled; and I doubt if Mr. Ferguson means that it has been politically controlled, in the sense of party politics.

Mr. FERGUSON. No; I did not mean that, at all.

Senator GLASS. And I did not mean that, at all.

I mean that there have been times when there has been gross maladministration of the act.

Senator COUZENS. Due to political influence.

Senator GLASS. Well, I would not call it political influence.

Senator COUZENS. I do not know what you call the Secretary of the Treasury, or any other publicly appointed officer—whether he is not a politically appointed man.

Senator GLASS. The Secretary of the Treasury and the Comptroller of the Currency were intended, by the proponents of the act, to represent in a broad sense, and not in the sense which you employed.

Senator COUZENS. How do you know my implication?

Senator GLASS. Well, because I have some sense.

Senator COUZENS. Of course, we cannot very well repeat private conversations that take place.

Senator GLASS. You can repeat anything that I have said to you.

Senator COUZENS. You do not recall condemning the greatest Secretary of the Treasury since Hamilton's time?

Senator GLASS. Yes; I do.

Senator COUZENS. Do you recall condemning him for his influence on the Federal Reserve?

Senator GLASS. Yes; certainly.

Senator COUZENS. Is not that political control?

Senator GLASS. It is maladministration.

Senator COUZENS. It was due to political control by party politics.

Senator GLASS. No; it was due to governmental control, and not to party politics, at all.

It was due to the desire of the Secretary of the Treasury to facilitate the issuance of Government credit; that is what it was.

It was not due to party politics at all. It was a maladministration of the text and the intent of the Federal Reserve Act; that is what it was.

Senator COUZENS. Of course, I cannot agree to such a limited degree of control, as defined by the Senator from Virginia.

But, then, we are supposed to hear witnesses, and not hear ourselves.

Senator GLASS. Well, we can have that out among ourselves.

Senator COUZENS. Are you stopping for the day now?

Senator BULKLEY. Have you finished, Mr. Ferguson?

Mr. FERGUSON. Yes.

Senator GLASS. We are very much obliged to you, gentlemen.

I will say this, Mr. Ferguson: That I had not supposed you wished to discuss title II, or I should have familiarized myself, perhaps, more definitely with the provisions of that title of the bill. I had been told by Senator Barbour that you gentlemen wanted to discuss titles I and III.

Senator BARBOUR. Senator Glass, I know that the fault must be mine.

Senator GLASS. It was not any great fault.

Senator BARBOUR. I sent you a memorandum, and we spoke about it on the telephone. In the memorandum there was an inadvertence—that one gentleman was going to speak on titles I and III and that the other gentleman was to speak on title III.

But we spoke on the telephone, and I thought I corrected that and that you understood it.

I know that Senator Moore and myself are very grateful to the chairman and to the committee for their attention and interest.

Senator GLASS. We are very much obliged to the gentlemen for their testimony.

(Thereupon, at 12:15 p. m., an adjournment was taken until tomorrow, Friday, May 3, 1935, at 10:30 a. m.)

BANKING ACT OF 1935

FRIDAY, MAY 3, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Couzens, McAdoo, and Townsend.

Senator GLASS. We have Dr. Sprague with us this morning.

We wanted to hear from you on title II of the impending banking bill, S. 1715; and we should be glad to have you make any statement that you may care to, in connection with it.

STATEMENT OF DR. OLIVER M. W. SPRAGUE, PROFESSOR OF BANKING AND FINANCE, HARVARD UNIVERSITY, CAMBRIDGE, MASS.

Dr. SPRAGUE. I shall confine what I have to say to title II; and the first matter that I should wish to bring up is as to whether the passage of that part of this bill may be regarded as an emergency or recovery measure.

In my opinion, it has little value from that point of view. There is practically nothing that the Federal Reserve System might not do under existing law, as a contribution to trade recovery, that it will be able to do if title II becomes law.

I look upon title II primarily, then, as a means of improving the Federal Reserve System over the years. There are only two features ing title II that, as far as I can judge, might have a bearing upon the immediate situation: The first is that which will empower the Federal Reserve banks to lend to member banks on sound assets, rather than exclusively on eligible paper. That change, in its immediate effects, does not seem to me to be of any importance whatever, partly because the banks are not borrowing at the present time, except to an insignificant extent; and secondly, because, as a matter of fact, the Reserve System has always loaned to member banks on the basis of sound assets. Wherever the eligible paper of a member bank, when offered, was not regarded as a good asset, the member banks have taken additional collateral—sometimes styled "excess collateral"—because the particular bits of eligible paper offered for rediscount were not regarded as a very good asset.

It does not, therefore, seem to me that the immediate effect of this change will be very great.

Senator BULKLEY. But suppose they do not have sufficient eligible paper: They cannot borrow, under present law, on sound assets, can they?

Dr. SPRAGUE. If they had no paper that, by any stretch of the imagination, could be styled "eligible", then you are quite right, sir.

Senator BULKLEY. Or if they did not have enough for their needs?

Dr. SPRAGUE. Yes.

Senator MCADOO. They could borrow on Government bonds, of course—if they had Government bonds.

Dr. SPRAGUE. They are eligible.

I am not saying that it is an undesirable change; I am simply saying that it does not appear to me that, at the moment, it will contribute very much.

Now, on the whole, I am inclined to think that it is a desirable change—for the reason that I do not believe that there is any close relationship between the eligible paper that a bank may have and the safe or desirable limits of borrowing, for the individual bank. Nor do I believe that there is any close relationship between the amount of eligible paper that may be offered and the desirable amount of credit to be extended by Federal Reserve banks.

Senator GLASS. Under the existing statute, the Federal Reserve Board has very broad powers in defining the eligibility of paper.

Dr. SPRAGUE. Yes; that is so.

Senator GLASS. It is only restricted by statute, when it comes to speculative matters; is not that true?

Dr. SPRAGUE. Well, the eligible paper may be broadly defined as loans which serve to provide funds for immediate working capital requirements of a business concern.

Senator GLASS. That I understand.

But the only restriction upon the Board, in its definition of eligible paper—which must relate itself to commerce, industry, and agriculture—is that it shall not accept speculative investment paper.

Dr. SPRAGUE. It cannot accept a real-estate mortgage, as such, for rediscount.

Senator GLASS. Under the existing law, Doctor, it is not allowed to accept any paper that is presented for discount for speculative purposes.

Dr. SPRAGUE. No; that is another restriction; and that might be put into the sound assets, if you wish to include the purpose.

Well, I look at this sound asset proposition mainly with reference to those activities of the Federal Reserve banks that have to do with their lending to the individual member. And the problem has not yet been solved, to determine the wise limits within which to lend to a particular member bank. If a member bank's loans were entirely liquid—all gilt-edge commercial paper of the open-market type—it would then be reasonable and safe to lend that bank a very large amount, by way of rediscount.

On the other hand, if a bank is not very liquid, and if its loans are purely local, then to rediscount the assets that it has may weaken that bank, leaving very little for the shareholders or depositors, in the event of failure.

I do not think we solve the problem of the proper use for Federal Reserve credit, in relation to the member bank, by any method of

definition. You can rediscount an undesirably large amount, for a member bank, whether it be that you rediscount its eligible paper or whether you grant it advances on the basis of its sound assets. And it is one of the things which the Federal Reserve authorities need to work out far more than they have yet, on the basis of past experience—what amount, in the varying situations of different banks, it is helpful and desirable to lend to the particular institution.

Therefore, on the whole, I am inclined to favor this change, which emphasizes the sound assets and recognizes that it must be through management that you determine what the wise limit of advances to a particular member bank may be.

Senator GLASS. Do not the brokers on the stock exchange claim that their loans are the soundest and the best loans that are made, at all?

Senator GLASS. And yet the existing law prohibits those loans—and, I think, very wisely.

Dr. SPRAGUE. I think so, too.

And that relates very much more to the other activities of our Federal Reserve banks—their operations in the money market.

Senator GLASS. But does not this proposed change textually authorize the Federal Reserve bank to make discounts on brokers' loans, or anything else it pleases, that it may regard as sound?

If it accepts the brokers' views that the brokers' loans are the soundest loans that may be made, and involve the fewest losses of any loans that may be made, would it not be authorized to engage in speculative transactions?

Dr. SPRAGUE. It is possible that you are right, even though there are provisions in the Glass-Steagall bill which I had supposed covered that point.

Senator GLASS. Well, they do cover that point, but this uncovers it.

Senator TOWNSEND. The only question to be considered here is whether it is considered sound or not; is that it?

Dr. SPRAGUE. Yes.

Senator MCADOO. Doctor, let me ask you this question: There are many banks of the United States where the opportunity for making what we call self-liquidating loans—that is, I mean eligible commercial paper—does not exist to such an extent that those banks can employ a sufficiently large part of their assets in such loans.

On the other hand, they can make many loans that are perfectly sound, that are not commercial or self-liquidating loans; for instance, the loans to a customer who can secure them, let us say, by municipal or State bonds, or other security which is perfectly satisfactory and which makes the loan perfectly safe.

Now, that bank, also, may not have any Government bonds in its portfolio.

In such a condition as that, the banker needs to rediscount but has an insufficient amount of eligible paper, for the reasons that I have stated, and has no Government bonds; and the other paper that he has, that might be perfectly good—as I have described it—would not be available for rediscount.

Dr. SPRAGUE. That illustrates my point that there are banks in every sort of position and that a given amount of accommodation that

may be quite appropriate and desirable for one bank may not be for another.

For example, there is a very interesting document prepared on the banks in Arkansas and their failures. And it is quite clear, from that analysis, that the banks that failed—to a rather large extent—were banks that had borrowed extensively, whether from city correspondents or from the Federal Reserve.

It is very clear, on the basis of the experience of the last 15 years, that it would have been better for the people of Arkansas if their banks had not borrowed quite as much as they did borrow. And it is not a question of the kind of assets that they used for borrowing; the trouble was that they exhausted their more liquid assets in the process of borrowing and had very little margin left to take care of the situation of deposit withdrawals.

Now, you can either leave the matter to the intelligence of the Federal Reserve or you can attempt to describe, by the law, a sufficient variety of situations to cover the varying situations of different banks.

But I am clear in this: That eligibility, as we have it, has not been a satisfactory safeguard. It has led a great many banks—or, at least, made it possible for a great many banks—to borrow more than it was desirable that they should borrow, given their entire situation.

Senator McAdoo. But if you widen the field for borrowing, by extending it to cover sound assets, do you not increase the temptation to overborrow instead of decreasing it?

Dr. Sprague. You do, unless the public and the management of the Reserve banks recognize the necessity of restraint varying with regard to the situation of the various banks.

Senator Glass. Doctor, I can call your attention to the fact—which I am sure you know—that the existing law charges the Federal Reserve Board with the exclusive right to determine or define the character of paper eligible for discount, always relating it to business transactions of a commercial, industrial, or agricultural nature.

Dr. Sprague. Yes.

Senator Glass. And that the only restriction on the Board, in making its definition, is in this language:

> but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying on trade in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States.

That is the only restriction upon the Board, in its definition of eligible business paper.

Now, what I am asking you is that if we substitute for that the words that you have had under discussion, we would simply supersede this restriction, as it seems to me, and the bank could go in the open market and gamble to its heart's content, in any security on the stock exchange that it might desire.

Dr. Sprague. Well, I would suggest that you substitute the sound assets for the first part of that provision, and then add the limitation which is there contained.

Senator Glass. But therein—according to the brokers, who have repeatedly testified before our committee—you preclude the most liquid assets, and the soundest assets known to banking.

Dr. SPRAGUE. You are precluding them from a general reason: That is, because it is thought that they foment undesirable speculation; it is not with regard to the safety and appropriate amount of borrowing to which a particular bank may resort.

They seem to me to be two fairly distinct problems: That there are banks that do not have very much of the paper of the sort included in the regulations of the Federal Reserve Board.

Senator GLASS. Is that not largely due to the fact that we have gone back to a bond-secured currency, instead of a commercial currency?

Dr. SPRAGUE. Well, if you have 60 billions of deposits, you simply do not have available an evenly and sufficiently well-distributed mass of these business loans, to provide all banks with a variable amount of material for rediscount at the Federal Reserve banks.

Senator GLASS. How many banks would you guess, as of this date, that there are without eligible paper for discount?

Dr. SPRAGUE. Well, if you include the United States Government bonds—not very many.

But, again, I would say that I regard this feature primarily with reference to the years ahead. And anything that will emphasize the responsibility of the Federal Reserve to limit borrowings to what is safe—from the viewpoint of the particular borrowing bank—is desirable.

If, however, you take the view that a bank has a right to secure accommodation, because what it offers is good, then the more restrictions you have upon what it may offer for rediscount, the better.

But I do not feel that it is wise, if you feel that the bank is not very well managed or if you feel that 75 percent of its assets are slow and doubtful, for the bank in that condition to secure accommodation, ordinarily, from the Federal Reserve or from anywhere else.

But I repeat that I do not say that it is likely to have very much effect, immediately, on what the banks are prepared to do. It is like many other provisions of this bill, that may be wise, or that may not be wise, but are unimportant as regards what the banks are going to be doing in the next 6 or 12 months.

Senator MCADOO. Outside of brokers' loans—which can easily be defined and can easily be excluded from that which is available for rediscount at Federal Reserve banks—there is, of course, a wide field of individually good loans secured by collateral that is absolutely sound.

Dr. SPRAGUE. Yes.

Senator MCADOO. Some of it may be stock exchange securities, or other bonds or stocks—first class, and always finding a ready market.

Now, with respect to that large field of loans, there is no provision under existing law by which they can be used even as a supplement to commercial loans, by a bank which wants to borrow from a member bank.

Dr. SPRAGUE. Yes.

Senator MCADOO. It seems to me that if we can draft this provision in such a way that paper of that character would not be denied eligibility, it would extend the field of operations for many

of these banks which, as you have just stated, do not find, in the area of purely commercial loans or self-liquidating paper, as you denominate it, a sufficient opportunity to rediscount their funds.

Is that correct?

Dr. SPRAGUE. Yes.

Senator GLASS. Under existing law, is not the Board authorized to make such definitions?

Dr. SPRAGUE. I do not think so, except in view of the temporary definition made in view of the emergency?

Now, if I may go on to the next matter that has a bearing upon the immediate situation—the provision regarding real-estate loans; and I am taking, for purposes of discussion, not the original draft presented to the Senate but rather the modified House bill, which, so far as real-estate loans are concerned, has made a change which renders the provision far more satisfactory from my point of view. I think it highly desirable that we develop in this country the practice of borrowing on real estate for longish terms rather than for the 3- or 5-year period that has been so customary, and with an amortization feature.

Senator MCADOO. Doctor, may I interrupt you for a moment?

Dr. SPRAGUE. Yes.

Senator MCADOO. I should like to ask to what particular provision, page, and line you are referring in House bill 7617?

Dr. SPRAGUE. That is almost at the end of title II.

Senator MCADOO. Section 24, on page 57, I presume, is it not?

Dr. SPRAGUE. Yes.

Senator MCADOO. Let us look at that and see if that is the provision to which you have reference.

Dr. SPRAGUE. Yes.

Senator MCADOO. All right.

Dr. SPRAGUE. Now, that is now set out in very broad terms, with authority in the Federal Reserve Board to issue regulations; and it seems to me that it might be used for the purpose of improving the practice in the matter of real-estate loans, whether they be of urban or agricultural character.

Senator MCADOO. You are not expressing approval of that section of the House bill?

Dr. SPRAGUE. I am expressing approval of that section, on the whole.

Senator MCADOO. Yes.

Dr. SPRAGUE. But also, I am pointing out that it does not seem to me, again, to be a feature that is going to contribute very much to change the present situation.

As with the case of most of the features of this bill, I am looking at it primarily from a long-run point of view.

Senator GLASS. You have already stated that you do not think they contribute to the present recovery from the depression?

Dr. SPRAGUE. Yes.

Senator GLASS. And you have already stated that they are not emergency requirements at all?

Dr. SPRAGUE. Yes. And they are the only features of the bill that, by any stretch of the imagination, so far as I can see, can be regarded as affecting the immediate situation.

Senator GLASS. Do you see any disadvantage in banks' investing demand deposits in long-term real-estate loans?

Dr. SPRAGUE. It depends upon the situation of the bank, and upon the proportion thereof. It is largely a matter of proportion.

A well-managed bank will continue in operation indefinitely. It must have a good proportion of assets that are near cash—which proportion will vary with all sorts of situations.

But in this particular proposal, it only has to do with the investment of a proportion of the time deposits, in real-estate loans.

Senator MCADOO. You insist, of course, upon the essential element that such loans, including the amortization, be soundly secured?

Dr. SPRAGUE. I think that is highly important.

Senator MCADOO. It is essential, is it not?

Dr. SPRAGUE. I think so.

Senator GLASS. Do you think it important to combine commercial banking with investment banking? Is not a reserve system intended to meet, at all times and promptly, the requirements of commerce, industry, and agriculture?

Dr. SPRAGUE. It seems almost unavoidable that there be some interrelation or fusion, because the banks have far more funds than can possibly be employed commercially.

Senator GLASS. Right now?

Dr. SPRAGUE. Or at any time.

They had far more funds in 1928 than could be employed in that fashion.

It is possible to reduce that total sum, under the influence of those provisions that empower the Reserve Board to fix the maximum rate of interest that a bank may pay upon deposits; and that should tend to force people to do more of their own investing—which would be all to the good.

In the 1920's banks were paying 4 and 5 percent for the time deposits—giving us a call on dollars, and paying us 5 percent, or so, for those funds.

And they had such a volume of funds that they could not possibly employ, even in a liquid fashion.

It would have been far better for the community, if ten or twenty billions of those funds had been invested by their owners, thus taking out of the situation ten or twenty billions of a call on dollars.

Senator GLASS. Do you think it at all feasible to establish a uniform rate of payment on time and savings deposits throughout the United States?

Dr. SPRAGUE. I think it might better be by districts than for the entire country; just as I feel that it is a desirable feature of the Federal Reserve Act, that we may have differential rates of discount in different parts of the country.

Senator GLASS. Precisely; and there is no more reason why there should be a uniform rate of payment on time deposits than on other deposits.

Dr. SPRAGUE. Precisely; and the modification of variation by districts might be a desirable addition to the Federal Reserve Act.

Senator GLASS. The Federal Reserve Act provides that now, Doctor.

Dr. SPRAGUE. By districts?

Senator GLASS. But it has not been followed.

Dr. SPRAGUE. It has been done generally.

Well, there we come to something that I want to take up a little later—that there is not much use giving powers to an agency if those powers are unlikely to be used because of the character or personality of the people making up that agency.

You can very easily give people powers that are so great that they are terrified when they come to use them.

But that is at the end of my story.

Senator GLASS. It is easy enough to give them powers that will terrify everybody else, if they are used, is it not?

Dr. SPRAGUE. Yes.

Senator MCADOO. Quite right.

Doctor, let me take you back for a moment, to this question of rates of interest in different districts of the country.

There are many of our States which have a legal rate of interest, established more than 100 years ago, and the same rate prevails today.

Dr. SPRAGUE. Yes.

Senator MCADOO. Those rates are fixed without any reference whatever to the economic conditions prevailing in the different States. And they are purely arbitrary prices established by law for the use of money. Some have legal rates as high as 7 percent.

Senator GLASS. Some are as high as 10 percent.

Senator MCADOO. Well, I do not recall, at the moment, any as high as 10 percent.

But they are as high as 10 percent, by contract.

Senator GLASS. Well, they are as high as 18 percent, by contract.

Senator MCADOO. In some States; yes.

Now, I think that constitutes a real abuse, and I think that is a field for reasonable reformation.

Of course, the Federal Government would have the power to establish the legal rate only as respects national banks. But would you consider it wise, for instance, for the Federal Government to legislate with respect to the legal rate of interest to be charged by the national banks throughout the United States?

Before you answer, I should like to say that, of course, this suggestion presents this situation: The State banks, you may say, would of course be able to charge a higher rate, and therefore they would be having an advantage over the national banks. But as a matter of fact, the national banks would have the advantage, because they would be charging a reasonable rate for money; and the State banks would have to come to it.

So I think it is advisable to establish a reasonable charge, here, provided we do not go so low as to be beneath a reasonable price for money.

Senator GLASS. The existing law provides that a national bank may prescribe the same rate as the State bank.

Senator MCADOO. Yes.

But, as it stands today, if a State has a legal rate of interest which is excessive, or unjustified, rather, by the economic situation—either the established legal rate, or a rate which may be made by contract between the parties—why, the national bank is permitted to charge the same rate as that established in that State.

If, on the other hand, there were a Federal law restricting the national banks to charging a reasonable interest charge, regardless of the State law, then the question is whether or not, in your opinion, that would be a desirable reform?

Dr. SPRAGUE. I should hesitate to answer that question, Senator, without a good deal of reflection. It is something about which I have not thought.

Senator MCADOO. It requires study, of course.

Senator GLASS. Before answering, let me point out to the Senator from California, just one difficulty with a suggestion of that sort: The State capital requirements vary greatly among the States, and afford such a departure from Federal capital requirements, that there are hundreds, if not thousands, of communities which cannot afford a national bank. And in those communities, the State law will prevail.

Senator MCADOO. That is true in any case, of course.

But the question is whether or not an effective measure of that kind would not benefit the general economy to such an extent that it would be justified.

Now, I am not proposing this; I am merely suggesting it as a subject for exploration.

Dr. SPRAGUE. I should not wish to answer it at the moment.

However, I am prepared to say that interest rates are undesirably rigid, and that a lowering of interest rates, very generally, would, I think, be a contribution to a trade recovery, if it could be brought about.

But I should look for it to be brought about, more, through the moderate rate of interest that the banks may pay on deposits, and through the accumulation of funds seeking investment.

Whereas, a change such as you suggest, although it might prove desirable, I should suppose would be very difficult to carry out. And I should suppose that it might affect public sentiment rather unfavorably, during its early stages of operation.

So that I would not regard it—though I am speaking quite offhand—as very helpful.

Senator MCADOO. You reserve judgment?

Dr. SPRAGUE. Yes.

Senator MCADOO. May I say, Doctor, with reference to your statement, that you know that Congress has, by law, prohibited the national banks and the member banks of the Federal Reserve System, from paying interest on demand deposits. I think that was a very effective reform.

Dr. SPRAGUE. Yes.

Senator MCADOO. And I think that has relieved them from heavy charges, and has stopped abuses of a very grave character in our banking system.

Dr. SPRAGUE. Yes.

Senator MCADOO. Now, in consideration of that, they might very well reduce the price of money to borrowers. But wherever a high legal rate of interest prevails—as in most of the States, regardless of economic considerations or situations—the legal rate is always required.

Dr. SPRAGUE. I think it might be desirable for some of the States to lower their usury rate, which was established many years ago. But that is something about which I do not feel qualified to express a definite opinion.

Senator GLASS. Here is a very simple question that you ought to feel qualified to answer: If we should persist in the original purpose of the Banking Act of 1933, and require all State banks, the deposits of which are insured, to become members of the Federal Reserve Banking System, could not that matter be better adjusted in that way, if at all?

Dr. SPRAGUE. That would affect at least a very large amount of funds—those funds that are employed by banks.

It would not affect all funds that are lent, of course. But it would go a long way in that direction.

Senator GLASS. In other words, would it not be within the power of the Federal Reserve Board to make regulations with respect to interest charges of member banks?

Dr. SPRAGUE. Not unless the power were given. I do not think it exists, under the existing law. At present, their power relates entirely to the rate of interest that the banks may pay to depositors.

Senator MCADOO. On time deposits?

Dr. SPRAGUE. On time deposits.

Senator MCADOO. There is no provision, as I understand it, by which the Federal Reserve Board could regulate the rates of interest charged to borrowers.

Senator GLASS. I understand that thoroughly.

But if you wished to authorize all the banks of the Federal Reserve System to do that, that would undoubtedly be a constitutional act.

Senator MCADOO. You are quite right. It could be reached through that method, and effectively.

Dr. SPRAGUE. I wish to make one suggestion about the section relating to real-estate loans: I think that real-estate loans ought to be limited to loans within the district, or at least within 100 miles of the district, in which a member bank is situated.

I do not believe that a member bank in Massachusetts is ordinarily in a position intelligently to make real-estate loans in Kansas or in Idaho; nor do I believe that a bank in those States is in a position intelligently to make them in Massachusetts.

Senator MCADOO. But do you think that they could intelligently make them in California?

Dr. SPRAGUE. I picked my States.

Senator GLASS. Do you think that any bank could intelligently make a real-estate loan under existing conditions, when the Government, itself, has gone into the real-estate business?

Dr. SPRAGUE. I take it that that is a rhetorical question.

Senator GLASS. No; it is a very practical question.

Senator TOWNSEND. May I ask if you would put any limitation to the character of real-estate loans? Is there not a great deal of difference, in real-estate loans, as to whether the loan is on a theater or on a hotel, or on a house, where the loan runs more or less in perpetuity?

Dr. SPRAGUE. There is; but you must leave something to the judgment of the lender.

And I should despair of attempting to safeguard, by legislative provisions, the particular type of loans that might be regarded as fairly safe, and those that might not be so regarded.

Senator McAdoo. You do not believe that, by legislative action, you can invest the human being with intelligence?

Dr. Sprague. Only in a very broad fashion.

Senator Glass. Under the decision of the Supreme Court, in the *Minnesota case*, do you think any real-estate loan of a bank, or anybody else, is very secure?

Dr. Sprague. Oh, they are in business, and will make loans of one sort or another, in any event.

So far, I have considered only changes in the statute, that may have some effect on the immediate situation. That influence is so slight that legislation along the lines of title II does not seem to me to be urgently needed at this session of Congress. Now, I come to provisions of title II that are significant only in the long run.

The first of these about which I should like to say a few words, is that relating to collateral behind Federal Reserve notes.

Senator McAdoo. Will you state the page and line, Doctor, if you have it? Are you dealing with the House bill or with the Senate bill?

Dr. Sprague. Well, the two bills are similar, as regards the changes regarding Federal Reserve notes.

Senator McAdoo. Yes.

Senator Glass. Page 46.

Senator McAdoo. In the Senate bill, or in the House bill?

Senator Glass. In the Senate bill, page 46.

Senator McAdoo. Very well.

Dr. Sprague. The provisions of the Federal Reserve Act relating to Federal Reserve notes were apparently designed to limit, in certain ways, the total amount of credit that might be extended by the Federal Reserve banks. There was the general limitation, which is retained in this new bill, of a 40-percent gold reserve; and then there was the additional provision that the remaining 60 percent must consist of rediscounted paper, or in its absence, the place must be taken by gold.

Now, there is not any particular relationship between the amount of rediscounts granted by Federal Reserve banks and the desirable amount of notes in circulation. Under our system of the use of checks, the amount of notes in circulation, or the total amount of money in circulation, is an incidental result of the level of prices, the activity of trade, and our habits in making payments, whether by check or by actual currency.

It does not seem to me that in the operation of the Federal Reserve System these special restrictions on note issue have had any practical effect, whatever.

They finally were modified to permit Government bonds to be used as collateral back of the Federal Reserve notes, because it became clearly evident that the total requirements for currency could not very well be met if the original restrictions were maintained. We would practically have been in the situation of meeting the increased currency requirements by the issue of what would have been little more than a gold certificate—virtually the situation we were in before the Federal Reserve Act was established.

On the whole, I am inclined to think that a large proportion of the total circulating medium of the country can be issued against the Government securities, as backing—always provided you do not attempt to use the note-issuing power as a means of financing Government requirements.

Obviously and quite clearly, there is need in this country for 4 or 5 billions of currency. It is inconceivable that we should ever drop down to 2 billions of currency in use.

Senator McAdoo. Doctor, just at that point. How do you establish in your mind the desirable amount of circulating notes required to meet the needs of business?

Dr. Sprague. In just about the same way that you determine the amount of subsidiary silver. If there is more subsidiary silver than is required under given circumstances, it comes drifting into the banks. They find that they have more on hand. They ship it to the Federal Reserve. And the Federal Reserve ships it to Washington.

The same is true of currency?

Senator McAdoo. They get currency for it?

Dr. Sprague. No; they get deposits, rather than currency.

Senator McAdoo. Yes.

Dr. Sprague. Similarly, in the matter of currency. If there is an excess, outstanding, relative to the activity of trade, and all the rest, the banks all over the country will find that they are receiving more currency over the counter than they are paying out over the counter; and it will be shipped to the Federal Reserve, to strengthen the balances of the shipping banks.

The active factor in determining the circulation or the total of the purchasing medium comes through the demand for loans which, initially, will take the form of deposits.

If business becomes more active and borrows more from the banks, in the first instance, that will take the form of balances against which checks are drawn. And then, as more labor and materials are employed, there may be increased requirements for more currency.

But the initiating force or process is through bank loans—taking, initially, the form of checking balances.

Senator McAdoo. Of course, Doctor, we all realize that, under our system in this country, the bank check constitutes the largest part of our circulating medium. The great bulk of the business of this country is done on bank checks. And, of course, when you get a contraction of credit in banks, you get a contraction of the bank-check circulation.

Dr. Sprague. That is followed by the contraction of the currency circulation, after a bit.

Senator McAdoo. Exactly; it has a relation.

Now, this is a theoretical question. We have outstanding in the country today, I think, about 4½ billion dollars in circulation—in notes of all kinds; that is, bank circulating medium.

Dr. Sprague. Yes.

Senator McAdoo. I am asking a hypothetical question, merely because I have an object in view. Would you say it would be inflationary to add a billion dollars to our circulating medium today?

Dr. Sprague. It would depend upon the reaction of the community thereto.

Senator McAdoo. You mean, of the country?

Dr. Sprague. Of the country.

If in the future, it did not at all affect confidence in the money of the counrty, that additional currency, after making 1 or 2 payments, would drift into the banks, and then to the Federal Reserve, increasing the balances of the member banks.

If it excited a fear of inflation, then the outcome would be different; because people all over the country might then begin to fly from currency, to buy tangible things—5 acres and a mule, or what not; and you would get an upward movement of prices, through fear.

There are two kinds of inflation, as I see it: A business inflation and a fear inflation. You cannot get a business inflation except when that is initiated by the process of securing loans.

Senator Bulkley. Are you ready to predict what would happen, right now, if we should put out a couple of billion dollars of currency, to pay the bonus?

Dr. Sprague. Why, no.

I might be willing to put it in this way: That if it were done grudgingly by the administration, and if everyone knew that it was distasteful to the administration, and that the administration was disposed to offset it, to some extent, then no fear inflation would follow.

Senator McAdoo. Suppose an amortization provision were made that would retire it, over a period of years?

Dr. Sprague. There, again, that is in the same line.

On the other hand, if a bonus were paid in currency, as just one of a succession of devices designed to force, through expansion, an upward movement of prices, then I think a fear inflation would develop.

Senator McAdoo. Do you think a people, as a whole, would be concerned, one way or the other, about an addition of 2 billion dollars to the currency? Do you think that would create apprehension among the people of the country?

Dr. Sprague. As I said a moment ago, if it were regarded as a succession of steps, so that if that does not work in the direction of price increase, some other payments will be made for some other purposes, then I think that you—again at some stage which is difficult to predict—induce a fear of inflation.

Up to the present time, our policy has been that of endeavoring, by one means or another, to induce a more active business demand for credit. It has not come yet; and when it will come, I do not pretend to know.

Senator McAdoo. We are just issuing 4 to 5 billion dollars of bonds—which, of course, have a decided inflationary tendency, and are bound to create inflation, eventually.

Dr. Sprague. I do not agree to that, Senator.

Senator McAdoo. Don't you?

Dr. Sprague. No, sir.

Senator McAdoo. I should think that we would get a very large measure of inflation.

Dr. Sprague. I am afraid that I differ from my sound-money friends, on that point. You can increase the Government debt,

without inflation, so long as the increase does do no more than absorb current savings. You can increase the Government debt to the point at which the people begin to be doubtful of the credit of the country. But that is a point that is far away, of course.

But the mere increase of $4,000,000,000 of Government debt, in itself, is no more inflationary than a similar increase of private investments arising out of an increase in the bonds and shares of stock of industrial companies all over the country.

Senator McAdoo. I am inclined to agree with you on that point. I put the question that way because I wanted to get your view.

And I want to say that that is in line with the same doctrine which you have just expressed—about an increase in circulating medium; that is, the fear that something more might be done.

The same kind of fear might be induced by increased governmental indebtedness; and the same consequences might follow.

Dr. Sprague. I am willing to say that if a year hence the situation is such that you need to borrow even more than was borrowed this year for work relief and other purposes, and if at that time we see no light at the end of the tunnel and no date at which these needs will diminish, then I think you get into a situation in which Government credit may be weakened and in which a fear inflation might start.

In other words, while you might go up to $50,000,000,000 of Government debt, it seems to me that the process will be very different if, for example, next year you had to increase the debt a billion dollars over the debt increase this year, and the year after that, two billions more than this year.

Whereas if you have by next year evidence of an improvement, so that the deficit will naturally decline somewhat, then you can go on with that deficit for quite some longer time. Because it will be at a diminishing rate of increase.

Senator McAdoo. Doctor, I was interested in your observations that if we created a fear inflation by the issuance of a billion or more of currency the people would be disposed to take their savings and invest them in 40 acres of land and a mule.

Now, that is one of the things that some people here are anxious to see done. Would that not have a generally stimulating effect upon the real-estate situation of the country that might be of value in rendering liquid a vast mass of stuff which is now hopelessly frozen?

Dr. Sprague. It is the same kind of liquidity which, it seems to me, was present in brokers' loan and stock-exchange securities in 1928 and 1929—a liquidity which presupposes an indefinite continuance of the upward movement.

I do not believe that that kind of fear inflation would land us in a condition under which we could go forward in a sound and healthy fashion.

Senator McAdoo. Of course, you understand that, for the purpose of discussion, I am merely putting hypothetical questions; I am not expressing views.

Senator Bulkley. Do I understand you to say that to put out, say, a quarter of a billion dollars of Treasury notes to pay the bonus would not necessarily result in an increase of the price level?

Dr. Sprague. Not much more than resulted in the previous bonus.

Senator BULKLEY. What do you mean by "the previous bonus"?

Dr. SPRAGUE. That of 1930 or 1931.

Senator BULKLEY. That was simply an increase in the loan value.

Dr. SPRAGUE. Well, it created a large amount of additional funds.

Senator BULKLEY. But not any new Treasury notes; there was no new issue as a result of it.

Dr. SPRAGUE. But it does not seem to me that the new issues promise anything permanent in the way of a price change. They either do or do not induce a fear inflation. If they do not, and do not induce a business inflation of a continuing sort, then the Treasury notes drift back to the banks and increase excess reserves of member banks.

So that you might have, as a result, 3 billions or more of excess reserves rather than the 2½ or 2¼ that we now have. But if it were simply regarded as the first of a series of measures that were going to be pursued until there was some action in the line of a price advance, then I think you could have the fear inflation begin, with a more or less early collapse.

I do not know that I need to go further into this change in Federal Reserve notes. For I do not believe that it would make any great practical difference in the functioning of the Federal Reserve System.

Now we come to open-market operations.

Senator GLASS. Before you start to discuss open-market operations, Doctor, I have a question about the increased currency medium.

What is the existing capacity of the Federal Reserve banks to afford credits in new issues for legitimate business transactions?

Dr. SPRAGUE. Why, they can, I should say, increase by something like three billions of dollars, in granting credit to member banks, or in buying bills or in buying "governments."

They have plenty of funds. And that is true, whether the existing arrangements about Federal Reserve notes are retained, or not.

If, however, you eliminate, or wish to lessen, the power of the Federal to grant credit, you could do so by eliminating the provision allowing them to use "governments" as cover for Federal Reserve notes. That would absorb quite a tidy portion of the gold certificates that the banks now hold.

Senator GLASS. And that are not worth more than the paper they are printed on, so far as redemption is concerned.

I am not talking about limiting the powers of the Federal Reserve System to meet the requirements of business. What I am trying to bring out, for the record, is that the Federal Reserve banks have ample facilities to meet all of the requirements of legitimate business.

Dr. SPRAGUE. Quite.

Senator GLASS. Is that not so?

Dr. SPRAGUE. That is true. They have them, with or without this change in Federal Reserve notes.

Senator GLASS. It may be a matter of interest to the record hereafter to state that the authority to loan on United States "governments", instead of on commercial paper, was granted upon the distinct understanding and repeated assertion that it never would be utilized.

Dr. SPRAGUE. Now, going on to the matter of open-market operations: They obviously are of no consequence at the present time for

the purpose of extending credit, for the reason that we have in the United States Treasury a situation which is unique, so far as I am aware, in the history of governments—since our Treasury has honest-to-goodness physical cash available for use amounting to something like 3 billion dollars.

The ordinary position of a government treasury is that it has a moderate working balance, and is obliged to go into the market and borrow if its needs increase over and above current revenue.

Our situation is unique, and will continue, I suppose, for a good many years, until the Treasury gradually has transferred to the Federal, in the form of gold certificates, the equivalent of the gold which it now holds.

But that places the responsibility for the conduct of our affairs, more largely than is normally the case, with the Treasury Department.

Since the revaluation of the dollar, a year or more ago, the Federal has been quiescent in the matter of open-market operations, the increase in member-bank reserves being brought about as a result of gold imports and the deposit of gold certificates by the Treasury with the Federal Reserve banks.

Senator McAdoo. This 3-billion balance, Doctor, in the Treasury, to which you now refer, consists largely of the results of the devaluation of gold, does it not?

Dr. Sprague. Yes; quite.

Senator McAdoo. Almost wholly, is it not?

Dr. Sprague. Almost wholly, two billion eight.

Senator McAdoo. That was my recollection.

Dr. Sprague. Some of it is being employed in connection with the retirement of the national-bank notes.

Senator Glass. I am glad that you did not make the mistake of calling it profit; you called it the result of the devaluation and not profit.

Senator McAdoo. I wished to be meticulous about it.

Dr. Sprague. The time may come when there will be general agreement that expansion has been such that restraint may be desirable. And with our existing set-up it will be necessary, if restraint is to be exercised, that it be through close cooperation between the administration, the Treasury Department, and the Federal Reserve System. I think that it is possible to prevent the development of an excessive business demand for credit, if there should be close cooperation between those two agencies—but hardly otherwise.

Senator Glass. Do you know of any failure on the part of the banks to cooperate?

Dr. Sprague. I do not. But I simply bring out this point to emphasize the point that the open-market changes are not of a type, under existing circumstances, that possibly could have any important bearing upon the situation.

Senator McAdoo. How about the future? We are talking about this from a long-range standpoint, as you expressed it.

Dr. Sprague. That is what I am constantly trying to emphasize: That I am judging this bill from the long-range point of view.

Senator McAdoo. From the long-distance point of view, do you think that change is desirable, or not?

Dr. SPRAGUE. Now, that brings us to the real heart of the problem. All of these changes—that relating to the open market, and those relating, I should say, to real-estate loans, and the provision relating to the power of the Federal Reserve Board to change reserve requirements of member banks—all enormously increase the power of the Federal Reserve Board. There has been a decided tendency for the power of the Federal Reserve Board to be increased—certainly ever since the death of Governor Strong. It is probably inevitable, and for this reason: The major function of a central banking organization is to influence the supply and cost of credit.

Now, 11 of the Federal Reserve banks cannot greatly increase the cost and supply of credit. Their business, in the main, is that of meeting, or not meeting, the requests for accommodation, on the part of the individual member bank.

The activities of the Dallas Reserve Bank, or the Minneapolis Reserve Bank, are not different, in essence, from those which were performed, before the Federal Reserve System was established, by certain city banks with numerous country correspondents—banks like the First National and the Continental in Chicago. The Federal very likely does it better; but in essence, the business is similar in character.

If you are going to influence the cost and supply of credit throughout the country, it can only be done through open-market operations; and those open-market operations must necessarily be executed almost entirely to New York.

All over the world the tendency is for central banks to make use, more and more, of open-market operations in the execution of their policies. Now, this is the reason why the New York bank has been far more important than all the other Federal Reserve banks put together.

One of the hopes of some of the proponents of the original Federal Reserve Act was that the System would serve to decentralize many things.

Well, it has not and cannot. It is inevitable that there be a central money market in every country, the place where idle funds go and where business goes, that is susceptible of contraction or expansion under the impact of changes in interest rates.

Now, the Federal Reserve Board has tended—and I think will tend—to receive more power and more authority, because, apparently, the people of this country are not willing that the central banking business be conducted primarily by a New York institution.

I think, then, on the whole, that it is probably inevitable that the Federal Reserve Board acquire more and more power in the conduct of the Federal Reserve System.

If one admits that, it would seem to me to follow that it is of vital consequence that the Congress establish a Federal Reserve Board that shall have independence of the administration in a large degree—as large a degree as is practicable.

It cannot be expected that it shall have that degree of independence that is possessed by the United States Supreme Court. The final decision must necessarily be made by the government that is in authority, on matters of monetary policy. That is true in every country. The Bank of England, for example—which, perhaps, en-

joys greater independence and prestige than any other central bank—cannot veto a definite decision reached by the British Cabinet, and supported by the British Parliament; but it is unthinkable that any important monetary action could be taken, in that country, without thorough-going consideration of the matter with the authorities at the Bank of England.

Now that, we do not have. Decisions have been made in this country, without anything that you can style thorough-going discussion of the proposal or the policy with either the Federal Reserve Board or with governors of the Federal Reserve banks. And that, as it seems to me, is the central question raised by this bill.

Senator McADOO. You speak of its independence, Doctor. How would you make it independent to the degree that you have in mind, as against the way in which the Board is now constituted?

Dr. SPRAGUE. In the first instance, I would not include the Secretary of the Treasury as a member of the Board. The Secretary of the Treasury will always be in position to exert an influence and to secure cooperation from the Federal Reserve Board.

This is not a new thought of mine; I have been urging it for a great many years.

Senator McADOO. My recollection is that you were opposed to the inclusion of the Secretary of the Treasury, in the original Federal Reserve set-up.

Dr. SPRAGUE. I was, sir.

Senator GLASS. Oh, yes; I had considerable correspondence with you on that subject.

Dr. SPRAGUE. I do not know of any specific instance in which the Treasury influence has been exerted to secure action of a desirable sort, that would not have been taken by the Reserve Board, of its own initiative.

I do know of a number of instances in which the Treasury influence has been exerted in directions which seem to me to have been shown, by what happened, to have been regrettable.

I also believe that you can secure better men, as members of the Board, if the Secretary of the Treasury is not included in the membership.

I would also take the Comptroller's office out from the Treasury Department, and make the duties of the Comptroller of the Currency the duties of one designated member of the Board.

Those changes would seem to me to be calculated to give the Board somewhat of a more independent status than it now has.

Senator McADOO. Am I correct in understanding your suggestion to be that the Comptroller of the Currency, as such, and his office, as such, should be taken out of the Treasury?

Dr. SPRAGUE. Yes.

Senator McADOO. And should become a bureau—so to speak—or a department of the Federal Reserve Board?

Dr. SPRAGUE. Yes.

Senator McADOO. And the Comptroller to sit as a member of the Board, in that capacity?

Dr. SPRAGUE. Yes; and in no sense be a subordinate of the Secretary of the Treasury.

Senator GLASS. As a matter of fact, Doctor, the Comptroller of the Currency is not, in the sense that you indicate, subordinate to the

Secretary of the Treasury. He does not even have to make a report to the Secretary of the Treasury; he is required, by law, to make his report to the Congress of the United States. And his term usually overlaps that of the Secretary of the Treasury.

Senator McAdoo. As a matter of fact, Mr. Chairman, if you will permit me to interject this thought here: He is a pure subordinate of the Secretary of the Treasury because no Comptroller of the Currency can hold his office against the wish of the Secretary of the Treasury and the President of the United States.

Senator Glass. Neither can any member of the Federal Reserve Board.

Senator McAdoo. I think that the Comptroller of the Currency is perhaps more subordinate to them.

Senator Glass. I think that the present Comptroller of the Currency has been less subject to that domination.

Senator McAdoo. I think that is true. We are not speaking of it from the viewpoint of domination, but from the aspect of influence.

Senator Glass. You are a little more diplomatic than I am.

Dr. Sprague. I am not thinking of it with respect to its effect on the Comptroller, but with regard to the influence on the public: That we need to establish a board that has such prestige and status that it will be regarded by the public, as the appropriate agency with which the administration will consult, in taking any important monetary action.

And that, it seems to me, would be somewhat improved if the board ceased to have any direct relations with the Treasury Department.

Senator Glass. Doctor, for the last half hour, you have proceeded upon the theory that the Federal Reserve System is a central banking system, and that the New York Federal Reserve Bank is the whole thing.

If we must have a central bank, to be owned by the Government and managed by the Government, that is one thing; I can readily understand how one might advocate that. Many persons regarded as experts in the banking business, have advocated that.

But why should we have a central bank, not managed by bankers, in which the Government owns not a dollar of proprietary interest, and assumes no single dollar of responsibility, but is managed by the Government?

Dr. Sprague. Well, it does not seem to me that that is in the essence of the problem.

Senator Glass. That is the problem that we have, right now.

Dr. Sprague. It seems to me that the fact that the banks provide the capital, is a minor factor in the functioning of the System.

The capital is reasonably secure. It has a limited dividend; and the surplus, practically speaking, is available for proper public use, and is in no sense available to shareholders, on liquidation.

I prefer to consider it a type of institution that will have the confidence of the public and which may be expected to be managed with a fair measure of efficiency.

My first point is that even if no further powers are granted the Federal Reserve Board than those which they now possess, their power has increased so largely since 1914 that we need, even more

than ever before, a body composed of independent-minded people—capable of cooperating, of course, with the Government—but with a standing with the public that will make their opinions weighty with the Government, as well as with the people outside.

Now I come to the specific provisions of the bill relating to the Board and to the Reserve banks.

And in this connection, I should like to call to your minds something that was said by the President in his fireside chat last Sunday—to the effect that it was very difficult for people stationed in Washington to sense public opinion and really to know what was going on all over the country.

Well, that is a difficulty that is bound to present itself if we place more and more power with the Federal Reserve Board situated here in Washington. It would be different if the capital of this country were in New York.

We do need a very close relationship between the Federal Reserve banks and the Federal Reserve Board; and in the Federal Reserve banks we need competence and also status, lest the management of the Federal Reserve banks become nothing more than branch managers. For in that event you will not secure the same quality of person as those who have been secured in the past in the service of numbers of the Federal Reserve banks.

It is from that viewpoint that I think the change proposed about the governor and chairman of the respective Federal Reserve banks should be considered: Will the governor, under the new proposal, have a sufficiently independent status and sufficient authority so that you can attract to those posts first-rate men?

Now, as the bill was originally introduced, I should say that the answer was clearly in the negative, for it provided that the governor of each Federal Reserve bank should be subject to approval, or renewed approval, or disapproval, by the Federal Reserve Board every year. That has been changed in the draft of the bill that is now before the House, and it now provides that after the initial approval of the governor selected by the directors of a Federal Reserve bank the board may not have a chance to say anything definite about it for a period of 3 years. On the whole, that seems to me to be a desirable change. Whether that period should be lengthened to 5 years——

Senator GLASS. Or 12 years.

Dr. SPRAGUE. Or 12 years is, I think, an important question for you to consider.

But the object should be that of giving that post sufficient influence and power so that it shall be attractive to first-rate men.

It is suggested that in concentrating the powers of the chairman with that of the Governor, something is done to make the post more attractive. I do not think that that carries very far. What will be important is whether the Governor of a Reserve bank is "his own man", or whether he is completely subordinate to the Federal Reserve Board.

Now, much has been said, in hearings before the House, about the need of securing cooperation. But I do not think the best way to secure cooperation is to have people constantly under your control, as your docile subordinates.

Senator GLASS. Is not that what this bill provides, for the governor of the Federal Reserve banks?

Dr. SPRAGUE. That is what I fear, as the bill is set up; and as I read the hearings of Governor Eccles, he seemed to me to think of securing results, to an unduly great extent, by means of control. Whereas I do not know of very many instances, in the functioning of the Federal Reserve System, in which there has been an undesirable lack of cooperation. There have been some differences of opinion; and people frequently speak of the Chicago case. But whether the Chicago bank participated in open market operations, or not, did not greatly matter. All that it meant was that the other 11 banks would have slightly more of the open-market purchases of "governments."

The powers that the Federal Reserve System has—and the even greater powers that it will have, if this measure is passed—lead me to feel that it is desirable that there be a necessity for a certain amount of give and take, and meeting of minds, and cooperation. Smooth working, without friction, is not nearly so important as that these matters of great moment be thoroughly threshed out, and that the various people doing the threshing out, shall be independent people, and not mere subordinates.

Senator MCADOO. May I interrupt you there, for an observation?

As I understand your testimony thus far, you believe that greater power should be concentrated in the Federal Reserve Board, but that it should be free, as much as possible, from governmental interferences, and from the exercise by the Government itself of any powerful influence on the Board.

Dr. SPRAGUE. That is not my view at all. I would say: Do not give the Reserve Board more power unless you can make certain that it will possess greater independence than in the past.

Senator MCADOO. Now, conceding that that power is given to the Board, do you not necessarily make the governors of the various banks subordinate to the Board and really subject to the compulsion of the Board in carrying out the policies which may be determined to be wise?

Dr. SPRAGUE. In the final show-down; yes. But there is a great deal of difference between dealing with a person who is your subordinate and whom you may fire tomorrow morning, if you are so inclined, as contrasted with people whose opinions you must respect, and who will be there even though you have overruled them on an important matter.

Senator MCADOO. Suppose you fix the time as 3 years: He has a sword of Damocles hanging over his head.

Dr. SPRAGUE. That is why I think a longer period of time is desirable, and why I say—quite categorically—that no evidence has been introduced, so far as I know, to show that the system has functioned badly in important matters, because it is somewhat cumbersome, and because of a lack of cooperation.

Senator MCADOO. Is not that statement of yours a negation of what you are advocating in the way of extending powers to the Board?

Dr. SPRAGUE. I extend the powers, partly because the public seems to demand it, and because—as I said before—the Board here in Washington, in a bit of a backwater in respect to the details and

the atmosphere and how things may be developing around the country, except as you get them from statistics and from people who come in.

Senator GLASS. How do you arrive at the conclusion that the public is advocating it? The whole press of the country has been against it.

Dr. SPRAGUE. Yes.

Senator MCADOO. That would make the public for it!

Senator GLASS. Probably so.

Not only that, but 65 of the outstanding economists of the country signed a protest against it. If my correspondence is any index at all, thousands of bankers are against it.

Senator MCADOO. They were against the original Federal Reserve Act.

Senator GLASS. So I am rather unable to see how you determine that the public is in favor of it.

Dr. SPRAGUE. Well, because of the successive changes in the act, made from time to time, which have tended to give more power to the Reserve Board.

I do not think that this measure is urgent, but I am inclined to think that, owing to the status of the New York bank as the operating factor in the system, it is likely to come about that more power will be given to the Board, sooner or later.

And I am trying to set out—somewhat academically, I fear—the conditions under which it seems to me reasonable that the Board have more power, if it is concluded that a change in the system is desirable.

Senator GLASS. Adding to the difficulty pointed out by the Senator from California, this bill not only makes the Governor of each Federal Reserve bank subordinate to the Board but it makes the banks absolutely subordinate to the Board, in the matter of open-market operations.

Under existing law, any one of the 12 banks may decline to participate in an open-market operation.

Dr. SPRAGUE. Yes.

Senator GLASS. Under this proposal, they will be compelled, by the Board and in the judgment of the Board, to participate in any open-market operation in which the Board wants them to participate.

Dr. SPRAGUE. I do not think that is necessary, because I know of no instance in which the policy of the System has been unfavorably affected because of the unwillingness of a particular bank to participate.

As I recall, the Boston bank at one time was indisposed to buy either bills or "governments", whichever it was. Well, that was that. So some of the other banks bought rather more; it did not affect the situation.

Senator GLASS. But let us assume that any one of the 12 banks—the Boston bank, or the Chicago bank, or the Kansas City bank—through its very carefully selected board, with 3 of the members representing the banks of the district; 3 of the members actively representing the commerce, industry, and agriculture of the district; and 3 of the members appointed by the Federal Reserve Board, here, to represent the Government——

Dr. SPRAGUE. Yes.

Senator GLASS. And suppose the board of any Federal Reserve district should determine that, in its judgment, it would not be warranted in participating in an open-market transaction—initiated, say, by the New York Federal Reserve Bank. Why should it be compelled to do so?

Dr. SPRAGUE. That is another case where I believe that cooperation is what one should aim at rather than absolute control. I do not think it is necessary for the functioning of the System. The general policy might well be determined by the Board; but whether every one of the banks shall come along I think might well be left to those banks. Because if it is at all a reasonable policy, you may be pretty certain that most, if not all, of the banks, in any given instance, will join in as they have done in the past.

Senator MCADOO. Doctor, is it not conceivable, too, that in some particular district prevailing conditions at the time may make it unwise for that bank to participate in an open-market operation, as ordered by the Board here?

Dr. SPRAGUE. Yes.

Senator MCADOO. And is it not a larger measure of protection to the System and to the general purposes for which it is designed to serve, to allow a bank so situated to determine for itself whether or not it shall participate?

Dr. SPRAGUE. I think it is wise to do that; and those who make this proposal ought to be able to present clear and definite situations in which the lack of cooperation has been a serious matter in the functioning of the System.

Senator GLASS. In any event, how may it reasonably be conceived that a board here in Washington, may be better acquainted with the requirements of any given Federal Reserve district, than the board of directors of the bank of that district, who are in intimate contact with all the business and banking interests of the district?

Dr. SPRAGUE. I suppose the answer would be made that these open-market operations are largely handled through New York, and that it comes up to the individual bank, mainly as an investment proposition.

I should rather put it on the ground that it is desirable, in view of the size of this country, to endure a little friction, if you please, and shoulder a little lack of cooperation at times, in order to make certain that you are going to have competent governors and directors.

Because if the Reserve banks become nothing but the branches of the Federal Reserve Board you will not get the same interest among directors.

Senator GLASS. That is precisely what this bill makes.

Dr. SPRAGUE. And that is why I think it is desirable to modify the open-market provision, with reference to taking out that "control or compel" feature.

Senator GLASS. Let me interpose there: The existing law authorizes the Board to adopt rules and regulations for the general policy of open-market operations. And speaking of the New York bank: The Banking Act of 1933 was designed to strip it of a great deal of the authority that it had assumed without sanction of law.

Dr. SPRAGUE. Yes.

Senator GLASS. In fact, no governor of a Federal Reserve bank may even negotiate with a foreign bank, without the express authority of the Federal Reserve Board.

Dr. SPRAGUE. Yes.

Senator GLASS. You know perfectly well that, theretofore, the governor of the Federal Reserve bank did as he pleased, in such matters.

Dr. SPRAGUE. Yes.

Senator GLASS. And went ahead and not only had conferences, but negotiated contracts and underwrote the indebtedness of foreign banks.

Dr. SPRAGUE. Yes.

Senator GLASS. And the Banking Act of 1933 stripped the Federal Reserve banks of that authority; and they may not do any of that sort of thing, without the sanction of the Federal Reserve Board.

Dr. SPRAGUE. Now, there is one further feature about the local banks, that I should like to mention: It is proposed to eliminate the chairman as a separate office, entirely, transferring his functions entirely to the governor. On the whole, I think the transfer of the functions is unobjectionable. I should like to suggest, however, that instead of making the governor the chairman of the board, that one of the class C directors be designated, who, then, would have no routine duties.

I think it would be highly desirable if, in each one of the Federal Reserve districts, a man were to be secured as chairman of the board, who drew no salary other than director's fees, but who—occupying an independent position and becoming, through being chairman, fairly familiar with the functions and activities of his Reserve bank—could make representations to the administration, to the Federal Reserve Board, and to the appropriate committees in Congress, far more satisfactorily than any one else coming from the various districts could be likely to do.

In fact, I should be quite willing that such a group of these chairmen take the place of the Federal Advisory Council, which is composed mainly of bankers who do not have any very direct familiarity with what is taking place in their respective Reserve banks.

In each one of the 12 districts, I think, you could find an outstanding person to occupy the post of chairman.

Senator BULKLEY. Do you think that the governor of a Federal Reserve bank ought to be a resident of the Federal Reserve district?

Dr. SPRAGUE. I do not think it is necessary. In the case of Boston, two governors of the Board have become governors of the Reserve Bank of Boston—one coming from Alabama and the other from Minnesota—with excellent results, in both instances.

I do not think that it is desirable that a sort of civil service of governors be developed, making the governorship of Reserve banks a career, with the governors moved about from one Reserve bank to another. However, I do not know that that is implied in this title II.

Senator MCADOO. As I understand your suggestion about the present chairman of the Board and the Federal Reserve agent who does exercise quite limited functions, and is more or less a clerk, and has no authority or cuts no figure in the management of the bank, unless he is a strong man and, therefore, does exert the powers

which the law confers upon him; I mean that, in operation, it has been just about what I described—at least it was while I was Secretary of the Treasury. He is not a strong man, as a rule, and he does not exercise a useful function to the extent that the law contemplated.

Dr. SPRAGUE. Yes.

Senator MCADOO. Now, if I understand your suggestion, you would change that?

He now draws a salary, and is appointed by the Federal Reserve Board, is he not?

Dr. SPRAGUE. Yes.

Senator MCADOO. Your suggestion is that there be an independent chairman—one of the class C directors, and therefore a Federal Reserve Board appointee?

Dr. SPRAGUE. Yes.

Senator MCADOO. That he draw no salary, and that he serve purely for the honor of the position, is that your idea?

Dr. SPRAGUE. Yes. And then you could get the sort of men who, for example, now are serving as chairmen of the various industrial loan committees in each district.

Senator GLASS. Dr. Sprague is an idealist if he thinks that anything like that may be attained.

In the first place, the chairman—and the agent appointed by the Federal Reserve Board—is assumed, under the law, to be a man of capable banking experience, who is obliged to know what is going on in the Federal Reserve bank, because he has to pass upon all the paper presented for discount.

And not only that, but he is charged with issuing to the bank the notes that the bank may demand and the credits that the bank may desire.

Dr. SPRAGUE. I am not suggesting that the existing chairmen are not good men. But they are salaried men, giving all of their time to their respective Reserve banks.

If the duties of the governor and the chairman are merged, then there is no occasion for a salaried chairman. But I think it would still be desirable that there be a chairman other than the governor to bring into the bank one of the more distinguished men of affairs in each district.

Senator MCADOO. Dr. Sprague, do you not think that there is something in the fact that the Chairman of the Board and the Federal Reserve agent, who is the Government's representative, has been subordinated, in the public mind, to a position of inferiority, because we permit the title of "governor" to be assumed by the man who is selected by the board of directors to be the executive officer of the bank?

I have always felt that if we had a governor of these banks, then the present chairman of the Board, who is the Federal representative, should get the designation of "governor", and the present Governor of the bank should get some other title, say President, for instance, because if you call a man "governor", he sometimes begins to swell a little.

Would it not be better to call the chairman of the Board—equivalent to the executive officer of the bank—its "president"?

Then you would give him the dignity that I think he should have. In the eyes of the public, he would have the position he ought to occupy with reference to the bank: In other words, he is "carrying the flag", so to speak.

Dr. SPRAGUE. With the governor simply serving in the fashion that I have indicated.

Senator MCADOO. Yes. He would have no salary, but he would have a title. And then he would really occupy a commanding position, in the public mind, and he would be the governor's representative.

As it is now, you call him a "Federal Reserve agent, and chairman", and the other man is called the "governor." And I think that that is psychologically very bad.

Senator GLASS. You will recall, Senator, that the proponents of the act, in the beginning, had expected that the chairman—designated by the Board, here—would be the chief executive officer of the bank. But we also authorized the bank, without designating any such officer as a governor, to select such officers as it thought were required to carry on its business. And each bank selected a man, and called him "Governor." And for a while, the governors of the 12 Federal Reserve banks undertook to usurp the authority of the Board, here in Washington. They had meetings when and where they pleased; and but for Governor Harding calling a halt on that sort of thing, and prohibiting them from assembling anywhere, except upon authority of the Board, they would have usurped the authority of the Board here.

But the Board had sat here for 20 years—now going on 21 years—and permitted that system to prevail.

Senator MCADOO. Governor Harding took that action upon my suggestion, when I was Secretary of the Treasury; and I think it was done after consultation with you, as I recall.

Senator GLASS. Yes; but it has been going on for 21 years.

And I do not think that any of the governors of the Federal Reserve banks have been discredited. If they have been, the Board has lawful authority to remove them at any time. But it has never removed one yet, that I know of.

So why interfere with a thing which has worked satisfactorily for nearly 21 years? It will be 21 years this June.

Dr. SPRAGUE. Well, apparently, those who proposed this measure are designing it to give the Board, or to restore to the Board, in part, the power which you, Senator, suggest the Board had originally.

Senator GLASS. I did say so; yes.

Dr. SPRAGUE. I am in favor of the maintenance of as high a degree of autonomy in the existing Federal Reserve banks as is consistent with a reasonable measure of efficiency in the conduct of business and the determination of policy.

Senator GLASS. But under the pending bill they have no independence whatsoever. They are mere branches of a central bank, which amounts to a central bank not conducted by bankers.

Dr. SPRAGUE. I am prepared to suggest lengthening out of the term of the Governor to 5 years, and modifying the open-market provision in the direction of not compelling a member bank to participate.

Senator GLASS. That is a very material alteration in the proposition that confronts us.

Dr. SPRAGUE. I attach even more importance to this matter of giving the Board, in the mind of the public, in the mind of the administration, and in the mind of Congress, a high degree of dignity, status, and independence.

Senator GLASS. Well, Doctor, we are greatly obliged to you for coming here and giving us the benefit of your advice, some of which I am altogether disposed to take; and other parts of which I shall try to consider fairly, as all of us shall.

As I have said, you are an idealist and I am an extremely practical man, and perhaps I cannot reach up to your level in considering these matters. Do you care to say anything further?

Dr. SPRAGUE. Well, I should like to conclude my remarks about the status of the Board.

Senator GLASS. I apologize for interrupting.

Dr. SPRAGUE. Perhaps I have said it already: There is not much use in giving this Board—or any other agency—power, unless the members of the Board are the type of people who will use it. Take just one instance. There is a provision, in existing law, which is greatly improved in this bill—about making changes in the reserve requirements of member banks; for this proposed measure allows the Board to make changes—not uniformly all over the country—but by classes of banks. That is a desirable change, I think.

But you can well imagine a Board that would be afraid to exercise that power; and it would be purely a dead letter.

Senator GLASS. But could you imagine a Board that would abuse it?

Dr. SPRAGUE. I can. But I can also imagine a Board which would use it very seldom—but also use it on occasions when it would be highly desirable.

It would have been a very desirable thing in 1928.

Senator MCADOO. It did not exist at that time.

Dr. SPRAGUE. No; but had it existed, what would have been the result? They did not use, in any effective fashion, the powers which they then had. They did not adequately advance the discount rate.

Senator GLASS. They did not advance it at all for 7 successive weeks, and they turned down the New York board's moves for advancing the discount rate. And yet that is the board which we propose to charge with the entire responsibility and power.

Dr. SPRAGUE. If the Board would not advance the discount rate, I cannot imagine it would jack up the reserve requirements of member banks.

Senator MCADOO. You are getting down to the basic difficulty: That you cannot always be sure of the responsibility or political independence of any board, and therefore you have to take the chance that the President will appoint men to this board of the character and stamina to execute the law. Otherwise we should have to stop legislating.

Now, have you any suggestion to make whereby we can secure men of the right stamina?

Dr. SPRAGUE. Well, write me a note when someone is up for confirmation.

Senator GLASS. And you write him back that the Senate, under the Constitution, is charged with just as much responsibility as the

President of the United States in the selection of these people and it never exercises it.

Dr. SPRAGUE. But it is the most important board—given all these powers—next to the Supreme Court of the United States, I would say.

(Dr. Sprague in reading over his testimony, amended his reply to the following effect:)

It is only in the event that it is possible to secure a Board that is not subordinate to constant political control that I am prepared to favor such changes in the Federal Reserve Act as are embodied in title II. And I may further add that even on the assumption of an independent Board, I believe that title II goes too far in subordinating the reserve banks to the Board.

Senator MCADOO. After all, it gets back to the matter of the men who occupy public office—and that applies to the President, as well as to the members of this board and the Members of the House and the Senate. Under our democracy, we take the chance of sending the best men, and you have to take the results as they come out of the hopper.

Senator GLASS. We have gotten pretty good results.

Senator MCADOO. I think we have. The fact that the United States has endured this long, is, I think, a tribute to the system.

Senator GLASS. Well, we are obliged to you, Dr. Sprague, for coming down and speaking to us; and we wish to thank you.

(Thereupon, at 12:45 p. m., an adjournment was taken until Monday, May 6, 1935, at 10:30 a. m.)

BANKING ACT OF 1935

MONDAY, MAY 6, 1935

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON BANKING AND CURRENCY,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10:30 a. m., in room 301, Senate Office Building, Senator Carter Glass presiding.

Present: Senators Glass (chairman of the subcommittee), Bulkley, Couzens, and Townsend.

Senator GLASS. Mr. Graettinger, will you please take the witness stand?

The legislative committee of the American Bankers Association requested us to hear you gentlemen on titles I and III of the bill.

Mr. GRAETTINGER. Yes, sir.

Senator GLASS. Will you be good enough to give your name and position to the reporter, and then proceed to make any statement that you desire.

STATEMENT OF M. A. GRAETTINGER, EXECUTIVE VICE PRESIDENT ILLINOIS BANKERS ASSOCIATION, CHICAGO, ILL.

Mr. GRAETTINGER. I shall make my statement brief, since the two gentlemen who follow me, being practical bank officers, will go into more detail.

I am appearing before you as a representative of the American Bankers Association, as well as in my capacity as executive vice president of the Illinois Bankers Association. In the latter position I am a member of the Central States Conference, an organization consisting of the presidents, vice presidents, and secretaries of the State bankers' associations in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin. This conference some time ago appointed a committee on banking legislation, and I have the honor to serve as chairman, together with the president of the Missouri Bankers Association, Mr. W. W. Alexander, Trenton, Mo.; the president of the Minnesota Bankers Association, Mr. Dan J. Fouquette, St. Cloud, Minn.; the president of the Indiana Bankers Association, Mr. M. J. Kreisle, Tell City, Ind.; and the executive manager of the Michigan Bankers Association, Mr. Ray O. Brundage, Lansing, Mich. There are more than 8,000 banks located in the territory represented by this conference, and this number is somewhat more than half of all of the banks in the United States.

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In general, these banks are in accord with titles I and III of the bill, which your honorable committee has under consideration; and we desire to see that much of the bill represented by titles I and III enacted into law in order that there may be a certainty as to the statutes under which the Federal Deposit Insurance Corporation shall function. We favor the maximum amount of insurance on each depositor's account being limited to $5,000, and that the temporary plan now in effect become the permanent plan by June 30; otherwise the permanent plan in the act of 1933 will become operative at that time.

Senator GLASS. You would like to see that done promptly, would you not?

Mr. GRAETTINGER. I would.

Senator GLASS. In order that due notice may be given to the banks?

Mr. GRAETTINGER. Yes; and that the banks may know that they are going to proceed with the plan that is now practicaly in effect.

We realize that, in order that the Insurance Corporation may properly carry on its functions and be placed on a sound basis, it must be clothed with authority to protect itself against excessive risks and have some discretion as to extending the insurance feature to the banks now covered and those later applying for coverage.

We agree to the general plan of having each bank pay an annual assessment on its total deposits to augment the funds of the Insurance Corporation and to provide a reserve. But, considering that the earnings of the banks as a whole are now at a very low mark and, in fact, that the losses and charge-offs more than take up these earnings, we believe that this assessment rate should be made as low as can be reasonably done.

The bill before this committee provides a rate of one-twelfth of 1 percent upon total deposits, although the board of directors of the Insurance Corporation may from time to time fix a lower rate, but not below 50 percent thereof. In the bill now being considered by the House, which was reported by the House committee, it is provided that this rate shall be one-eighth of 1 percent on the total deposits, definite or mandatory.

If it is desired that a definite rate be made effective, we believe that it might be better to start with one-sixteenth of 1 percent, which would mean approximately $25,000,000 a year, so that the banks in general would be able to conserve their earnings and contribute toward reserves which will help them to take care of such losses as occur, make the banks stronger and, consequently, better insurance risks for the Corporation.

Senator GLASS. What would you say about the suggestion to have the assessment, whatever it may be, stop after the $500,000,000 that is required in the fund, and automatically resume when the fund shall have been impaired by 25 percent?

Mr. GRAETTINGER. I should say, of course, that there should be a limit as to the amount that might be collected as a reserve, although it may be that—I do not imagine it will happen, but it is conceivable—there might be a year when the fund would be drawn on quite heavily, and it would take some time to bring it back.

Senator GLASS. Well, the assessments would automatically be resumed, to bring it back.

Mr. GRAETTINGER. Yes.

By one method, they may be assessed beyond their ability to pay—which would contribute to their weakness, thus making them charges on the Corporation; while the other method, by calling for a reasonable assessment, would be helpful under present circumstances and permit the banks to build up their strength for the benefit of the Corporation. While the experience over the past years might justify a higher rate of assessment, it is quite conceivable that with proper supervision and authority lodged in and exercised by the Federal Deposit Insurance Corporation, the rate suggested may be sufficient to carry on its purposes. No actuarial basis can be provided until an experience over a number of years and under varying conditions has been had; and until then, and because of the circumstances cited, we feel that the statutory provisions should call for the rate suggested until such time as a correct assessment basis may be determined.

There is one other provision in title I in the bill before this committee with which the nonmember State banks are particularly concerned, and that is section 23, page 37, which requires all banks to become members of the Federal Reserve System before July 1, 1937, in order to continue as insured banks.

And on this point I wish to say that the banks in the territory already referred to, whether large or small, national or State, are practically unanimous in asking that this provision be eliminated from the bill. It would seem that State banks having the qualifications for insurance by the Insurance Corporation under subparagraph 2 of section 6, page 9 of the bill, having the capital requirements under the laws of the respective States in which located, being acceptable to the Insurance Corporation as qualified insured banks and being under supervision and authority of the Insurance Corporation as well as of the several State governments, should not also be compelled to become members of the Federal Reserve System and put under additional supervisory power and authority. Banks in these States want to see the dual system and the right of States to charter banks, in accordance with localized sentiment and conditions, retained, for they fear that the effect of the provision in the bill will be the possible centralization of banking to which compulsory membership may lead. After all, the management is the measure of success of any banking institution or of any kind or form of banking, and, without question, there is just as efficient management in the smaller unit banks as in the larger institutions, which fact has been very definitely demonstrated during the recent years.

Banks under State supervision have gone along year after year serving not only their own communities but the country as a whole and are responsible to a great extent for the development of this country. The unit country bank, whether national or State, owned and officered by men who have their homes in the community where the bank is located, has been the greatest factor in building up that community. It has prospered with the people and suffered with

them. These so-called " country banks " have gathered together the savings of their communities and used them in a large measure to build up their home towns and the country thereabouts. It has been an ideal financial set-up both for the banker and the customer.

True, unit country banking has had its share of failures, but in no greater degree than was experienced in metropolitan centers, because people who owed the bank could not pay their obligations on account of the world-wide economic conditions over which neither they nor the bank had any control. All that is wanted by the State banks is the opportunity to continue to be of service in their particular field. A closer adjustment to local problems can be had under State laws. Therefore, there should be the alternative opportunities that now exist from which banking institutions and local business interests may choose, so that they can function or conduct their business relationships under that banking code which best meets the conditions of the times and of the place, as they see them.

There are a number of these State nonmember banks which do not have sufficient capital to meet the requirements for admission into the Federal Reserve System; but in many instances the capital structure is large enough in proportion to the liabilities to adequately take care of the business entrusted to them, and these banks could not profitably employ or meet the necessary capitalization increase which would be required for membership. Is it not possible that, with the changing trend of economic conditions in the smaller communities, this situation will take care of itself by the natural process of evolution and adjustment, without the requirement of compulsory membership, which appears rather repugnant to these smaller banks? It is on behalf of all of the banks in the 14 States mentioned for which I speak that we earnestly hope you will give favorable consideration to the request for the elimination of this one provision in the bill.

As to title III, I wish to say that we are in substantial accord with the provisions as printed in the bill and ask for your approval of the same.

Senator TOWNSEND. I came in late. What 14 States do you represent, Mr. Graettinger?

Mr. GRAETTINGER. Arkansas, Indiana, Iowa, Illinois, Kansas, Missouri, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, North Dakota, South Dakota, and Wisconsin.

Senator TOWNSEND. You feel that those States are in accord with the statement which you have made?

Mr. GRAETTINGER. I do.

Senator GLASS. One critical difficulty that I may mention, is that the President and then the Secretary of the Treasury, Mr. Woodin, agreed to the insurance of the deposit provisions of the bill, only upon representations that it would tend to bring about approximately a unified banking system. And the President has twice said to me that he would be disposed to disapprove any repeal of that provision.

So we must take that into account, in considering the problem.

Mr. GRAETTINGER. I understand, Senator.

Senator GLASS. The President may be induced to change his mind. Such things have occurred.

Mr. GRAETTINGER. It is my idea that with perhaps a liberalization of the requirements, and with a campaign of education, on the part

of the Federal Reserve Board, perhaps these banks could be induced and encouraged to go into the Federal Reserve System.

It is just a question of their being compelled to go into the Federal Reserve System. And I think that, during the years, that may transpire.

Senator TOWNSEND. Do you have in mind any liberalization of the Federal Reserve that you think would be helpful?

Mr. GRAETTINGER. Of course, there is the question of capital requirements. In these smaller communities, there are many banks that have sufficient capital to carry on their business. But it is not enough to enable them to qualify as members of the Federal Reserve System.

Senator GLASS. The Governor of the Federal Reserve Board, in his testimony before the House committee, was quite unmistakable in his advocacy of the provision.

Mr. GRAETTINGER. Yes; I understand that.

Senator GLASS. But we shall be very glad to give due consideration to the representation that you have made.

Mr. GRAETTINGER. Thank you.

Nevertheless, we should like to present our statement in regard to that, and have you consider that.

Senator GLASS. Oh, yes; you are not obliged to agree with the Governor of the Federal Reserve Board.

Mr. GRAETTINGER. Thank you, gentlemen.

Senator GLASS. Mr. Allendoerfer, we shall be glad to hear from you. I recall very pleasantly that you attempted the impossible task of giving us an acceptable definition of these banking auxiliaries in 1933. We did not accept your definition, and the result is that we have had a good deal of confusion in the administration of the law.

We shall be very glad to hear from you, Mr. Allendoerfer, on such subjects of the bill as you may care to discuss.

STATEMENT OF CARL ALLENDOERFER, VICE PRESIDENT, FIRST NATIONAL BANK, KANSAS CITY, MO.

Mr. ALLENDOERFER. My name is Carl W. Allendoerfer. I am vice president of the First National Bank, at Kansas City, Mo.

I wish to touch on titles I and III, and to discuss some things of importance and some that are not so important, but perhaps are worthy of some little discussion.

Senator TOWNSEND. Are you confining your remarks to titles I and III?

Mr. ALLENDOERFER. Yes, sir.

Senator TOWNSEND. All right.

Mr. ALLENDOERFER. I have written what I have to say, with the idea of saving the time of the committee. In my memorandum, I have referred to certain pages and lines of the House bill 5357, which I think is identical with the Senate bill, of which I had no copy.

Senator TOWNSEND. Well, it was originally identical.

Mr. ALLENDOERFER. That is what I mean.

Having lived for many years in a State neighbor to Nebraska, Kansas, and Oklahoma where the guaranty of deposits has been tried, I cannot help having reservations and even doubts as to the

successful outcome of an attempt to insure bank deposits. But one must readily admit the actualities of the case, which are that conditions practically demanded that the public be reassured as to their deposits in banks. This could only be done by some form of insurance fund.

We have not yet had enough experience with the temporary fund on which to base the formation of a permanent fund, but it is possibly necessary to relieve the uncertainty and anxiety of all banks as to their assessments and make it possible for them to come to definite decisions as to becoming or remaining members. Therefore, some permanent fund should be established, even though it be with a realization that it is experimental and may require change, as a result of operating history.

Let me say first that I have a pet theory that under any insurance principle the assessment should not be based on deposits, but on the assets of the bank which expose the fund to risk; that is, loans, investments, real estate, and so forth; and secondly, that assessments on total deposits, instead of on insured deposits, is at least a debatable proposition. But I recognize that legislation should not be muddied by consideration of pet theories, even though they might be found sound; and that if the Corporation is to be carried on at all, the base on which assessments are levied must be very broad or the rate will be so high as to put many banks out of business. However, there are some proposals in the bill which may be susceptible of adjustment, and which I shall mention.

In the order as they appear in the bill and not in order of importance, may I refer to items which seem to me worthy of consideration.

Page 4, line 9, and following, gives a definition as follows:

> The term "deposit" means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obligated to give unconditional credit to a commercial, checking, savings, time, or thrift account, * * *.

It seems to me that this definition is not particularly clear. The reference to unconditional credit given, or which the bank is obligated to give sometimes, does not specify when the bank is obligated to give it. It may be that those who drew that definition, have in mind the same point that I have; but it just is not clear to me.

In any event, I venture to suggest a substitute. Section 323 of title III authorizes the Federal Reserve Board to define "demand deposits", "time deposits", and so forth, and while the definition there is for a different purpose, it would, of course, be well to attempt to see that there is no conflict in definitions, and that the meaning of the words "deposit" or "net deposit", used with reference to one section, is not different from that when used in connection with a different section.

However, for the purposes of this section, I should like to substitute this wording:

> The term "deposit" means the credit balance in any commercial, checking, savings, time, or thrift account held by a bank in the usual course of business, less deposited items in process of collection, and so forth.

There is more to this definition, about certificates of deposit, and so forth, in the same sentence, and in which I am not suggesting any