

6

POSTAL SAVINGS DEPOSITORIES

SPEECH

OF

HON. ROBERT L. OWEN

OF OKLAHOMA

IN THE

SENATE OF THE UNITED STATES

FEBRUARY 25, 1910



WASHINGTON
1910

29883-8760

ES

EST

in Ok

bank
t wou
n at
y the

unde
e, any
yet
icular
ge me
e emer
as t
stance
nited S
denies
emer
ead.

in Okla

the r
t they
to.
banks,
re defic
eir quo
he thro

aterial,
which
ued aga
0,000 of
of surpl
es so iss
out may
nited St
l bonds

nited St
standing
say for
100 in

amount
e out s
ount of

sland eva
e of Unit
road bond
r of ban
outstandi
otion, in r

. It is
bond oug
any purpo
nate of t
or whethe
nstance f
ys, no, tha
k him why

r;
r;

ca
cor
ers.
ale
ts

as
ses
of
r a
vin
ten
wo
rs,

re
a p
ka
th

isn

gan

hat

rs,

rs,

rs,

rs,

for

ha

th

trys

the

nc

he

lous

n

fa

er

ge

thr

to

me

com

n

th

wi

th

ec

av

t

pr

c

ma

care

et

in

te

nt

d

of

ell

POSTAL SAVINGS DEPOSITORIES

ESTER

HON. ROBERT L. OWEN

RESTATE OF THE U.S. TO STATE

LIBRARY

RECEIVED

SPEECH
OF
HON. ROBERT L. OWEN.

POSTAL SAVINGS DEPOSITORIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 5876) to establish postal savings depositories for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes.

Mr. OWEN. I ask that the amendment I have proposed to the pending bill may be read.

The VICE-PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. It is proposed to strike out all after the enacting clause of Senate bill 5876 and to insert:

From and after the passage of this act the Comptroller of the Currency shall set apart the annual tax on the circulation of the national banking associations of the United States as a special fund, to be designated the "bank depositors' guaranty fund," to be used by the comptroller for the immediate payment of the depositors of any national bank failing after the passage of this act. The net liquidated assets of any national bank of which the Comptroller of the Currency takes charge for the purpose of liquidation shall be deposited to the credit of the "bank depositors' guaranty fund" to the extent required to reimburse such fund any moneys advanced by such fund for the payment of the depositors of such bank. No deposit under contract, either directly or indirectly, to bear interest in excess of 4 per cent per annum on time deposit, or in excess of 2 per cent per annum on current account, shall be included in the insurance provided by this act, and no such deposit shall be paid out of the "bank depositors' guaranty fund."

That any state bank or trust company may have its deposits guaranteed by the "bank depositors' guaranty fund" upon an equitable system to be prescribed by the Comptroller of the Currency and approved by the President of the United States.

Mr. OWEN. Mr. President, in offering a substitute for the postal savings-bank bill I do not do so under the belief that it will be adopted by the Senate, but for the purpose of calling attention to the importance of the subject-matter and because as a Democrat, believing in the doctrine laid down by the national Democratic convention, for one I should like to offer to the Senate at least an opportunity to conform to the proposal of the Democracy in its last national platform, which is as follows:

We pledge ourselves to legislation under which the national banks shall be required to establish a guaranty fund for the prompt payment of the depositors of any insolvent national bank, under an equitable system which should be available to all state banking institutions wishing to use it.

We favor a postal savings bank if the guaranteed bank can not be secured, and believe that it should be so constituted as to keep the deposited money in the communities where the depositors live.

The postal savings-bank bill has been amended in the committee and in the Senate so as to provide that the money shall

be kept in the vicinity in which it is proposed these deposits shall be made, and unless it be amended to the contrary before its passage I should feel obliged to support the bill, because it appeals to my judgment as being practical and sound, as serving a great public use, and because I believe it to be constitutional; but, Mr. President, I see no reason why the postal savings-bank bill should not become a law, and at the same time the bank-guaranty plan be applied to the national banks of the United States under a system which would permit the state banks to be the beneficiaries of that plan.

There has been carried on in this country a deliberate propaganda against either the postal savings-bank proposition or any plan of mutual guaranty of bank deposits by the legislative committee of the American Bankers' Association. I hold in my hand their report of a meeting in Chicago in September, 1909, and, since they are deserving of a hearing, I shall read their objections. They say:

Resolved, That the American Bankers' Association is unalterably opposed to any arbitrary plan looking to the mutual guaranty of deposits either by a State or the Nation, for the following reasons:

1. It is a function outside of the State or National Government.
2. It is unsound in principle.
3. It is impracticable and misleading.
4. It is revolutionary in character.
5. It is subversive to sound economics.
6. It will lower the standard of our present banking system.
7. It is productive of and encourages bad banking.
8. It is a delusion that a tax upon the strong will prevent failures of the weak.
9. It discredits honesty, ability, and conservatism.
10. A loss suffered by one bank jeopardizes all banks.
11. The public must eventually pay the tax.
12. It will cause and not avert panics.

Resolved, That the American Bankers' Association is unalterably opposed to any arbitrary plan looking to the mutual guaranty of deposits either by a State or the Nation, believing it to be impracticable, unsound, and misleading, revolutionary in character, and subversive to sound economics, placing a tool in the hands of the unscrupulous and inexperienced for reckless banking, and knowing further that such a law weakens our banking system and jeopardizes the interests of the people.

Every hostile economic suggestion of these excellent gentlemen has been fully met by the Oklahoma banking system and demonstrated beyond reasonable doubt to be ludicrously untrue.

If there were any more adjectives available in the financial vocabulary they would have been doubtless used by these gentlemen, who, if they lived in the Indian country, would be called "Young-men-afraid-of-losing-their-deposits." When their verbal abuse is all summed up, the meaning of this opposition of the members of this legislative committee of the American Bankers' Association can, I think, be put in a few words, namely, that the very few citizens representing the larger banks of the country who practically dominate and control this association, believe that a guaranty plan making safe the deposits of the small banks will take away from the larger banks, to some measurable extent, a portion of their deposits. In my own judgment, they are in error as to this, because when the small banks become the depositories of the money which is now hidden in private hoards and which is not now in circulation in any bank, the increasing deposits passing into the hands of the small banks will, through the reserve system, contribute most substantially to the city banks. I think the accuracy of their

criticism of this system is perhaps illustrated also by the accuracy of their prophecies. They say:

Your committee's greatest work during the past year was that of preparing plans and assisting the committee of the savings bank section in defeating the numerous measures for the establishing of a postal savings banking system for the United States.

We will not at this time discuss the various bills, as they are all dead (peace to their memory).

It seems that they are not all dead, but the spirit of the postal savings plan is very much alive in the pending bill. The present postal savings-bank bill is offered to the country in pursuance of the declaration of the Republican platform, pledging to the people of the United States a postal savings-bank bill. Both parties are committed to this proposition—the Democratic party in the alternative, the Republican party directly. I shall stand for this bill in the alternative, as proposed by the national Democracy, and I shall at the proper time propose this amendment to the bill, as well as offer it as a substitute for this bill.

Mr. President, on the 15th of January, 1908, I introduced a bill, Senate 3988, providing substantially for the above provision, for the purpose of preventing panics in the United States and for the purpose of giving stability to our national commerce. On the 14th of February, 1908, the State of Oklahoma passed an act establishing a bank depositors' guaranty fund for the state banks of Oklahoma, under which the national banks of that State might avail themselves of the bank depositors' guaranty fund by a plan to be agreed on between the authorities of the State and the Comptroller of the Currency. The Comptroller of the Currency held that no national bank could be authorized, under the law, to take advantage of the privileges offered by the State of Oklahoma, and the Attorney-General of the United States, in an opinion, sustained that view of the Comptroller of the Currency. In consequence, 73 national banks in Oklahoma in the first seventeen months of the operation of the Oklahoma bank depositors' guaranty law gave up their charters as national banks and became state banks of Oklahoma.

Up to date I understand that over 90 of the national banks have given up their charters in the State of Oklahoma. That is, over a fourth of these banks have retired in less than two years.

Are you prepared to let the national banking system in Oklahoma lose further prestige by refusing the remedy I propose?

The actual operation of the bank depositors' guaranty fund has been the most brilliant answer to every hostile prophecy and the most triumphant reply to every critic of the system. The Oklahoma statute was drawn with great care, with the active assistance and cooperation of many of the leading bankers of that State.

Every reasonable safeguard was provided to give the Oklahoma banks the greatest security and stability possible. For example, the persons organizing a bank were subject as individuals to the approval of the bank commissioner of the State, who required such persons to be men of good character and of good precedents, and free from the suspicion of engaging in the banking business for speculative purposes.

A double liability was imposed upon stockholders.

The capital was required to be fully paid.

29883—8760

The bank was not permitted to receive money on deposit in excess of ten times the amount of its paid-up capital and surplus, but provided for increase of capital in that event to correspond with increase of deposits.

It was forbidden to pay interest on deposits in excess of a rate to be fixed from time to time by the bank commissioner, who fixed a low rate not exceeding 4 per cent on time deposits and a lower rate on current accounts.

Real estate loans in excess of 20 per cent of the aggregate loan of such banks was forbidden.

The bank commissioner was authorized to require the increase of the bank's capital or surplus to prevent an excess of the bank's deposits of over ten times its capital and surplus.

The active bank officers were forbidden to lend the money of the bank to themselves.

The bank was forbidden to employ its moneys in trade or commerce, to buy the stock of other banks, or to make loans on its own capital stock.

The banks were required to carry a reserve of from 20 per cent in towns of 2,500 or less to 25 per cent in towns exceeding 2,500 inhabitants.

Savings associations were required to keep 10 per cent of their deposits on hand in cash and 10 per cent additional in bonds of the United States, or state, county, or municipal bonds of the State of Oklahoma worth not less than par.

The total liabilities to any bank of any person, company, corporation, or firm for money borrowed, including in the liabilities of such company the liabilities of the several members thereof, were forbidden in excess of 20 per cent of the capital stock actually paid in.

Banks in an insolvent condition were forbidden to receive deposits.

Suitable penalties were provided for any false report or improper conduct.

Full publicity was required.

Frequent reports and examinations were provided.

Overdrafts were forbidden, the officer of the bank allowing the same to be personally liable.

Preference to any depositor or creditor by pledging the assets of the bank as collateral security was forbidden.

Habitual borrowing for the purpose of reloaning was placed under control.

The immediate replacement of an impaired capital was provided.

A bank depositors' guaranty fund was provided, to reach in twenty years an equivalent of 5 per cent of the average deposits of the banks, the guaranty fund to equal 1 per cent of the deposits for the first year and a sum equal to one-twentieth of such 5 per cent, or one-fourth of 1 per cent of such deposits per annum, until the total amount of 5 per cent of such deposits should have been paid at the end of twenty years.

New banks organizing were required to set aside 3 per cent of their capital for the guaranty fund.

Additional assessments were provided for in case of extraordinary emergency, with a proviso that the emergency assessments should not in any calendar year exceed 2 per cent of the average daily deposits of such banks and trust companies.

If the emergency assessments should prove to be insufficient to pay off the depositors of any failed banks having valid claims against said depositors' guaranty fund, the state banking board is required to issue and deliver to each depositor having any such unpaid deposit a certificate of indebtedness for the amount of his unpaid deposit, bearing 6 per cent interest, consecutively numbered and payable in serial order.

The law provided that any bank put in liquidation by the bank commissioner should have its depositors immediately paid from the bank depositors' guaranty fund. The bank commissioner has similar powers to the Comptroller of the Currency.

The banks are forbidden to loan money in excess of 12 per cent, with a legal rate of 7 per cent.

Mr. President, I have thus outlined the principal features of the Oklahoma law, because it has been much misunderstood throughout the United States and indeed has been grossly misinterpreted by special interests, who regard the prosperity of small banks and the growth of the deposits of small banks with hostility, upon the narrow and unsound doctrine that the volume of deposits going to small banks will diminish the volume of deposits in the large banks.

In point of fact, as the deposits of the small banks grow, such banks naturally become depositors in the larger banks of the country to the extent which the convenience of commerce justifies.

For the information of the Senate and for the information of the people of the United States, I requested a statement from the state banking department of Oklahoma and submit the following letter from Hon. A. M. Young, bank commissioner, together with the inclosed condensed and comparative statements, giving the resources and condition of the state banks and of the national banks between February 14, 1908, when the Oklahoma bank-depositors' guaranty law went into effect, and June 23, 1909, with a further statement between June 23, 1909, and November 16, 1909:

STATE BANKING DEPARTMENT,
STATE OF OKLAHOMA,
Guthrie, February 2, 1910.

Hon. ROBERT L. OWEN,
Washington, D. C.

MY DEAR MR. OWEN: Your telegram received. I should have given this matter attention earlier, but I have been extremely busy.

I inclose condensed and comparative statements which will give you some idea as to the popularity and growth of the guaranty law in our State.

We have had three national and three state bank failures since the law went into effect. Three national banks have converted into state banks since the failure of the Columbia Bank and Trust Company and three state banks have converted into national. I have had about 25 applications for new banks since the failure of the Columbia Bank and Trust Company.

I took charge of the Columbia September 29, with deposits of \$2,900,000. The doors were never closed, but individual depositors were paid as they called for their money. This large failure did not in the slightest degree interfere with other banks or the financial interests of the city or State. * * *

* * * In fact, in the first sixty days after this failure state banks gained more than 33 per cent in deposits and the national banks something like 16 per cent. I mention this, as it is entirely foreign to what usually follows a bank failure.

The First State Bank at Kiefer had on deposit with the Farmers' National Bank at Tulsa something over \$20,000 at the time the latter institution failed. I took charge of this bank December 14. They had \$78,000 on deposit. In eight days' time every single depositor had

29883-8760

received their money. The Farmers' National Bank, which closed on the above date, is still closed.

The way a failed national bank is handled is very little short of barbarism.

If there is any other information desired that I can give you do not hesitate to call for it.

Assuring you of my best wishes, I am,

Very respectfully,

A. M. YOUNG,
Bank Commissioner.

STATE BANKING DEPARTMENT,
Guthrie, Okla.

CONSOLIDATED STATEMENT OF THE CONDITION OF STATE BANKS IN OKLAHOMA AND OTHER INFORMATION IN REGARD TO NATIONAL AND STATE BANKS AS SHOWN BY REPORTS OF COMPTROLLER OF THE CURRENCY AND OF THE BANK COMMISSIONER OF OKLAHOMA UNDER DATE OF JUNE 23, 1909.

Consolidated statement of the condition of the state banks in Oklahoma, and other information in regard to national and state banks, as shown by reports under date of June 23, 1909:

State banks of the State of Oklahoma.

RESOURCES.	
Loans and discounts	\$35,137,300.08
Overdrafts	719,616.37
Bonds, warrants, and securities	3,598,934.06
Banking house, furniture, and fixtures	2,274,558.28
Other real estate owned	307,304.71
Due from banks	14,390,114.86
Exchange for clearing house	299,479.34
Checks and other cash items	280,325.60
Cash in banks	3,643,366.56
	60,650,999.86
LIABILITIES.	
Capital stock paid in	10,270,800.00
Surplus fund	758,774.03
Undivided profits	1,615,882.23
Due to banks	3,896,541.02
Individual deposits	42,722,927.57
Cashiers' and certified checks	527,593.53
Bills payable	729,250.98
Rediscunts	158,230.50
	60,650,999.86

The Oklahoma guaranty law went into effect February 14, 1908, since which time 163 state banks have been chartered, 73 of which were conversions of national banks, with deposits approximating \$7,300,000.

Individual deposits in state banks February 29, 1908	\$18,032,284.91
Individual deposits in national banks February 14, 1908	38,298,247.07
Individual deposits in state banks June 23, 1909	42,722,927.57
Individual deposits in national banks June 23, 1909	38,111,948.40
Gain in state bank deposits since the guaranty law went into effect	24,690,644.66
Loss in national bank deposits for the same length of time	186,298.67
Capital stock of state banks February 29, 1908	5,833,216.65
Capital stock of national banks February 14, 1908	12,215,350.00
Capital stock of state banks June 23, 1909	10,270,800.00
Capital stock of national banks June 23, 1909	9,730,000.00

Number of state banks February 29, 1908, 470.
Number of national banks February 14, 1908, 312.
Number of state banks June 23, 1909, 631.
Number of national banks June 23, 1909, 222.
Ninety national banks have converted and liquidated since guaranty law went into effect.

Average reserve held by state banks June 23, 1909, 42.3 per cent.
The state banks of Oklahoma on February 5, April 28, and June 23, 1909, held a higher reserve than the national banks of any State in the Union except Colorado.

Bank failures, none.

A. M. YOUNG,
Bank Commissioner.

29883-8760

STATE BANKING DEPARTMENT,
Guthrie, Okla.

Consolidated statement of the condition of all state banks in the State of Oklahoma, as shown by reports under dates of June 23, 1909, and November 16, 1909.

	June 23, 1909.	Nov. 16, 1909.
Number of banks.....	631	662
RESOURCES.		
Loans and discounts.....	\$35,137,300.08	\$35,010,721.96
Overdrafts.....	719,616.37	2,248,575.08
Bonds, warrants, and securities.....	3,598,934.06	3,543,359.18
Banking house, furniture, and fixtures.....	2,274,558.28	2,396,957.14
Other real estate owned.....	307,394.71	234,726.09
Due from banks.....	14,390,114.86	18,508,385.20
Exchange for clearing house.....	299,479.34	1,653,558.19
Checks and other cash items.....	280,325.60	497,346.52
Cash in banks.....	3,643,366.56	4,607,348.70
Total.....	60,650,999.86	68,700,978.06
LIABILITIES.		
Capital stock paid in.....	10,270,800.00	10,767,800.00
Surplus fund.....	758,774.03	881,340.87
Undivided profits.....	1,615,882.23	1,511,122.34
Due to banks.....	3,896,541.02	^a 4,537,080.83
Individual deposits.....	42,722,927.57	^a 49,775,433.41
Cashiers' and certified checks.....	527,593.53	^a 650,752.02
Bills payable.....	720,250.98	428,378.37
Rediscounts.....	138,230.50	149,070.22
Total.....	60,650,999.86	68,700,978.06
Average reserve held.....per cent.....	42.3	49.7

^a Total deposits, \$54,963,266.25.

Increase in individual deposits between June 23, 1909, and November 16, 1909.....\$7,052,505.84

Increase in individual deposits between September 1 and November 16, 1909.....4,998,173.96

A. M. YOUNG, Bank Commissioner.

Mr. OWEN. Mr. President, I am informed by the bank commissioner that in his judgment the bank guaranty fund of the State of Oklahoma will not be seriously impaired when the assets of the Columbia Bank and Trust Company have been entirely liquidated; that the private depositors will lose nothing and that the State will lose nothing.

It will be observed that the state banks in Oklahoma had only \$18,032,000 of individual deposits on February 29, 1908, and on November 16, 1909, had \$49,775,433.41 of individual deposits, with total deposits of over \$54,963,000, an increase of about 200 per cent in deposits in less than two years.

The individual deposits in the national banks February 14, 1908, were \$38,298,000 and the individual deposits in national banks on June 23, 1909, were \$38,111,000, showing a gain in the state-bank deposits in seventeen months of over \$30,000,000 and a loss in national-bank deposits of \$186,000.

Seventy-three national banks, however, during this period were converted into state banks with deposits approximating \$7,300,000, so that this item must be considered in comparing the two systems.

29883—8760

The number of state banks has increased from 470, February 29, 1908, to 662 banks. The number of national banks has decreased from 312 to 222 banks, June 23, 1909.

In this short time the state banks from exceeding the national banks in number by about 50 per cent now exceed the national banks in number by about 300 per cent.

The increase in individual deposits in the state banks between June 23, 1909, and November 16, 1909, was \$7,052,505.84, a very remarkable showing, considering that in September the serious bank failure of the Columbia Bank and Trust Company, a state bank at Oklahoma City, with deposits approximating three millions. Notwithstanding this failure, the individual deposits of the state banks increased from September 1 to November 16, 1909, \$4,998,173.96.

The average reserve held by the Oklahoma state banks June 23, 1909, was 42.3 per cent—a higher reserve than that of any of the national banks of any State in the Union, except Colorado. And on November 16, 1909, the average reserve held by the Oklahoma state banks was 49.7 per cent—a reserve about as great as the average reserve of the Bank of England—and offering a favorable comparison with the Treasury of the United States, as against its outstanding liabilities.

Mr. President, the State of Oklahoma has the best banking system in the United States; it is a model for the balance of the United States. It protects the small depositor and gives him confidence, and when there is a loss due to mismanagement the loss is distributed in such a manner that it is not felt by any of the banks contributing. It is, after all, merely a mutual insurance plan.

And this is the banking system, Mr. President, which is criticised by the American Banking Association as unsound, and as a reckless banking system. It is precisely the contrary. It has promoted stability, a high reserve, and banking of the highest order.

The confidence of the people of Oklahoma in this improved banking system is shown by the deposits of the people increasing nearly 200 per cent in less than two years. The preference of the people to this banking system over the national banking system is clearly manifested by this extraordinary mark of their confidence in making their deposits. The national banks gained but a small per cent, comparatively, on an average, and the state banks gained nearly 200 per cent in this short period of time.

This development of confidence is reflected in the marvelous growth of our towns and cities in Oklahoma, which are growing as rapidly as these astonishing deposits. Let States and cities who want to learn the secret of confidence, of stability, and of rapid development come to Oklahoma and learn the lesson from her wise and virtuous laws.

Mr. President, I had the privilege of establishing the first national bank in Indian Territory, and caused the extension of the national-bank act to that Territory which afterwards became Oklahoma. My personal interests have been, and are now, almost exclusively in the national banks. The national banking system is splendidly administered; it is worthy of all honor and credit. Those banks are thoroughly deserving of the confidence of the depositors of the country, and I should like to see the national banks enjoy the full prosperity to which they are

29883—8760

entitled. During the ten years preceding the last panic the loss to the national-bank depositors did not exceed \$1 per annum out of exceeding \$60,000 dollars of deposits. The abrasion of gold coin in the pockets of the people would greatly exceed this. It is a wonderful record of fidelity and of sound administration. Yet, notwithstanding this high tribute to the national banking system, we can not forget that a failure such as that of the National Bank of Commerce, of Kansas City, involving a bank whose deposits amounted to thirty-five millions, shook the confidence of the depositors contributing to this bank in twelve or fifteen States. The Walsh failure, in Chicago, served a like harmful purpose in the region of the Great Lakes.

The Morse-Heinze failures in New York shook the confidence of the depositors on the Atlantic seaboard. These failures could have been easily prevented by the guaranty fund plan. It may be true that the depositors under this system may have lost nothing through the National Bank of Commerce, nor through the Walsh failure, but they had their money tied up; they could not get their deposits when they wanted them, and the consequence is the statistical argument is not satisfying to the ordinary depositor, while it may be persuasive to the statesman who is not considering the subject from the standpoint of a depositor.

Our national-bank act should be amended, and amended immediately. It would cost the Government of the United States nothing whatever to provide this mutual insurance plan for the depositors of the national banks, and every State in the Union would immediately follow suit.

This system would give to the people of the United States freedom from financial disturbance, freedom from commercial disturbance. When the banks are disturbed every business man in the country is disturbed, for all of our business men are both borrowers and depositors.

A brilliant example of the stability obtained by the mutual insurance plan was shown in the failure of the Columbia Bank and Trust Company at Oklahoma City, a state institution, with about \$3,000,000 of deposits. If this had been a national bank and these deposits had been tied up, to be ultimately paid after the bank assets were liquidated, involving from two to five years, it would have left a harvest of distrust. As it was, the depositors were promptly paid; they immediately redeposited their funds with other banks, and the state banks gained \$4,998,000 of deposits from September 1 to November 16, 1909, in two months and a half, showing that the confidence of the people was not impaired by the failure of the Columbia Bank and Trust Company. The people were not hurt by it. The banks of Oklahoma City were not thrown into a panic by it; the commerce of Oklahoma City suffered no serious embarrassment and no shock; the banks did not force their clients to pay up under pressure, but the business of the community remained undisturbed, and the value of the Oklahoma bank system was triumphantly vindicated and its great worth demonstrated in a manner which should forever silence the criticism of those who prophesied evil of it, and who desire to deal fairly, frankly, and justly with this economic question.

The bank mutual-insurance plan by the guaranty fund is preferable to the postal savings system, because the banks can

afford to pay a higher rate of interest than the Government offers through the postal savings plan.

It avoids increasing the governmental activities or offices and leaves the people to manage their own business without increase of government expense or supervision, beyond the present supervision of the comptroller.

The postal savings bank is but another form of the guaranty of bank deposits. It is an unlimited but justifiable guaranty by the United States.

If the guaranty of bank deposits can not be established, then as an alternative I approve of the postal savings-bank system under the amendments accepted by the Senator from Montana, as set forth in the reprints of this bill, under date of February 3, 1910. This system will not take money away from the small communities to concentrate such funds in the large financial centers, but will be an important auxiliary to the state banks and to the national banks, by adding to their deposits those funds which would not be deposited at all, unless such deposits were properly guaranteed. The guaranty of the United States of these deposits will bring from hiding many millions of dollars, which will be immediately redeposited in the local banks. Under this system the unreasoning panic and want of confidence, which has heretofore caused bank depositors to withdraw currency for hoarding, will be prevented. It may not entirely prevent the occasional withdrawal for hoarding by wealthy manipulators, who occasionally lock up currency for speculative purposes in order to depress the stock market and take advantage of such depression as buyers of depressed stocks, but it will make the country outside of the influence of the rich manipulators incapable of being stampeded by the cry of panic, and will go far to give stability to our national commerce, a consummation devoutly to be wished.

The postal savings bill should add to our national banking capital several thousand millions of dollars, because every dollar of currency brought from hiding means approximately \$10 of deposits and \$10 of loans, the ratio of currency to deposits in the national banks of the United States being at least 10 to 1, as will appear from the reports of the Comptroller of the Currency.

If we can not have the depositors' guaranty plan, I should approve the postal savings bill as now drawn.

Mr. President, I can not acquiesce in the suggestion that the postal savings bill violates the Constitution of the United States, for the reason that I regard the postal savings system as a legitimate extension of the postal service.

The Constitution of the United States was established by the people of the United States, and was ratified by the people of the various States acting through their constituted authority, and was drawn, as its preamble declares:

In order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and so forth.

And the idea of promoting the general welfare runs like a golden thread throughout the entire Constitution, giving life and vitality to clauses which require interpretation in the light of this national purpose.

While I do not believe that section 8, Article I, which provides for the laying and collecting of taxes, could be construed to

29883—8760

apply to any and all objects beyond this obvious and manifest purpose of the raising of taxes, I do believe that the Constitution of the United States, authorizing the establishment of the postal system, providing for the establishment of post-offices and post-roads, is not extended unduly when it embraces the postal savings system. In its primary establishment it was necessarily crude, but by the common consent of all of the people of the United States it has been gradually extended without protest, without conflict, without challenge on the part of anyone that it was a violation of the Constitution of the United States as it has been expanded.

For example, in the matter of issuing money orders, a citizen goes to a post-office, deposits his money in the post-office, receives a postal money order payable either to himself or to his order. It becomes, in effect, a bill of exchange, to be cashed by the post-office in any part of the United States. It is, in fact, a banking transaction. It is making the post-office a place of deposit. It is making the post-office a place where deposits are paid, and the extension of the postal savings system, in the manner proposed in this bill, is only an enlargement providing that these transactions shall be limited to a fixed amount and shall bear interest. Mr. President, since the consent of the governed is the best evidence of the justification of government and since the Republican party, through its national platform, has declared in favor of the postal savings-bank system, and since the Democratic party has made the same declaration through its platform, and since the people of the United States, from the Atlantic to the Pacific, have voted for candidates upon those two platforms, I take it there never was a proposition brought before the Congress that had a more universal acquiescence of the people in its constitutionality. I therefore take it that it is not outside of the grant of constitutional power to extend the postal system so as to include the postal savings plan, because it is a reasonable expansion of the conveniences of the post-offices established under the Constitution and because such expansion is universally approved by the people of the United States.

More than that, Mr. President, since the postal savings plan is of the greatest importance in preventing panics in this country, by providing a safe place of deposit, by taking care of those depositors who are the most timid of any, and who always constitute a menace to the banks of the country by precipitating runs on the banks because of their fears, and since this system will be an important factor in preventing financial panic, the postal savings system will be an agency of the United States in regulating commerce between the States and preventing its paralysis by panic.

By preventing panic it will serve also as an agency of government in regulating the value of money or its purchasing power. I have heretofore shown that money in times of panic has twice the purchasing power which it has in times of financial prosperity.

I take it that both parties in the United States, through their representatives in national convention believed the postal savings system to be constitutional, otherwise both parties in the United States would not have committed themselves to the postal savings system, and therefore it is in order to justify this legislation, outside of constitutional considerations, by say-

ing that it would promote the providence of the people, their economy, their thrift. Outside of the constitutional argument, this legislation is justified because it will bring from hiding immense hoards of banking capital and will add greatly to our financial strength and to our commercial power as a nation.

Every other civilized nation in the world has adopted it. Gladstone declared that it was the most important act of his long life to have promoted this system in the British Empire.

For these reasons, Mr. President, I should give my adherence to this bill in the event that the Senate does not accede to the plan proposed for the strengthening of the national banks, which I should like to see done in any contingency, and I shall at the proper moment offer such an amendment to the consideration and vote of the Senate, after it shall have been disposed of by the vote of the Senate, as a proposed substitute.

APPENDIX.

Statutes of the State of Oklahoma.

CHAPTER VI.

BANKS AND BANKING.

ARTICLE I. Organization.

ARTICLE II. Banking board—guaranty fund.

ARTICLE III. Bank commissioner.

ARTICLE I.

ORGANIZATION.

An act relating to banks and banking and declaring an emergency, as amended by laws of 1909, senate bill 39, same being a bill entitled "An act to amend chapter 6 of the Session Laws of Oklahoma, 1907-8, relating to banks and banking, and declaring an emergency," taking effect March 11, 1909.

SEC. 278. Three persons may organize a bank procedure. Any three or more persons, approved by the bank commissioner, a majority of whom shall be residents of this State, may execute articles of incorporation and be incorporated as a banking corporation in the manner hereinafter provided. Said articles of incorporation shall contain the corporate name adopted by the corporation, which shall not be the same name used by any corporation previously organized, or any limitation of such name; the place where its business is to be conducted; the purpose for which it is formed; the amount of its capital stock, which shall be divided into shares of the par value of \$100 each; the name and place of residence of and number of shares subscribed by each stockholder; and the names of the stockholders selected to act as the first board of directors, each of whom shall be a bona fide holder of at least \$500 of the stock of said bank, fully paid and not hypothecated; the length of time the corporation is to exist, which shall not exceed twenty-five years; and such other matters not inconsistent with law as the incorporators may deem proper. Said articles of incorporation shall be subscribed by at least three of the stockholders of the proposed banking corporation, and shall be acknowledged by them and filed in the office of the secretary of state and a copy thereof, duly certified by the secretary of state, shall be filed with the bank commissioner. The secretary of state shall issue a certificate in the form provided by law for other corporations, and the existence of such bank as a corporation shall date from the filing of its articles of incorporation and the issuance of certificate of the secretary of state, from which time it shall have and may exercise the powers conferred by law upon corporations generally, except as limited or modified by this act: *Provided*, That such bank shall transact no business except the election of officers and the taking and approving of their official bonds, the receipt of payments on account of subscriptions of its capital stock, and such other business as is incidental to its organization until it shall have been authorized by the bank commissioner to commence the business of banking as hereinafter provided.

SEC. 279. Conditions precedent to doing business: When the capital stock of any bank shall have been paid up the president or cashier thereof shall transmit to the bank commissioner a verified statement showing the names and places of residence of the stockholders, the amount of stock subscribed, and the amount paid in by each, and the

29883—8760

bank commissioner shall thereupon have the same power to examine into the condition and affairs of such bank as if it had before that time been engaged in the banking business; and if the commissioner is satisfied that such bank has been organized as prescribed by law, and that its capital is fully paid, and that it has in all respects complied with the law, he shall issue to such bank, under his hand and seal, a certificate showing that it has been organized, and its capital paid in as required by law, and is authorized to transact a general banking business; *Provided*, That in the reorganization of a bank or trust company the assets may be accepted in lieu of cash at their actual value.

SEC. 280. Amount of deposit—interest: A banking corporation organized under the provisions of this act shall be permitted to receive money on deposit not to exceed ten times the amount of its paid-up capital and surplus, deposits of other banks not included, and to pay interest thereon not to exceed the rate that may from time to time be fixed by the bank commissioner, as the maximum rate that may be paid upon deposits by banks in this State; to buy and sell, exchange, gold, silver, coin, bullion, uncurrent money, bonds of the United States, or of this State, or of any city, county, school district, or other municipal corporation thereof, and state, county, city, township, school district, or other municipal indebtedness; to lend money on chattel and personal security, or on real estate secured by first mortgages, running not longer than one year: *Provided*, That such real-estate loans shall not exceed 20 per cent of the aggregate loans of any such bank; to own a suitable building, furniture and fixtures, for the transaction of its business, the value of which shall not exceed one-third of the capital of such bank fully paid: *Provided*, That nothing in this section shall prohibit such bank from holding and disposing of such real estate as it may acquire through the collection of debts due it: *And provided further*, That all banking institutions now organized as corporations doing business in this State are hereby permitted to continue said business as at present incorporated, but in all other respects their business, and the manner of conducting the same and the operation of said bank, shall be carried on subject to the laws of this State and in accordance therewith: *And provided further*, That no bank, except those that have complied with or that may be organized under the laws of this State relating to trust companies, shall engage in any business other than is authorized by this act. And whenever it shall appear from the preceding-year reports made by such banking corporation that the total deposits are more than ten times the amount of its paid-up capital and surplus, deposits of other banks not included, the bank commissioner shall have power and it shall be his duty to require such bank within thirty days to increase its capital or surplus to conform to the provisions of this act or cease to receive deposits.

SEC. 281. Amount of capital—grades: That hereafter the capital stock, which shall be fully paid up, shall not be less than \$10,000 in towns having 500 inhabitants or less; the capital stock, which shall be fully paid up, shall not be less than \$15,000 in towns having more than 500 inhabitants and not more than 1,500 inhabitants; the capital stock, which shall be fully paid up, shall not be less than \$25,000 in cities and towns having more than 1,500 inhabitants and less than 6,000 inhabitants; the capital stock, which shall be fully paid up, shall not be less than \$50,000 in cities having more than 6,000 inhabitants and less than 20,000 inhabitants; the capital stock, which shall be fully paid up, shall not be less than \$100,000 in cities having more than 20,000 inhabitants.

SEC. 282. Capital stock may be increased, or decreased, subject to approval of commissioner: The capital stock of any banking association doing business under the laws of this State may be increased or decreased at any time by resolution adopted by three-fourths of its stockholders at any regular meeting or at a special meeting called for that purpose, of which all stockholders shall have due notice in the manner provided by the by-laws of such banking association. A certificate must be filed with the bank commissioner by the chairman and secretary of the meeting, and by a majority of all the directors, showing the compliance of the provisions of this section, the amount to which the capital stock has been increased or decreased, the amount of stock represented at the meeting, and the vote upon the question to increase or decrease the capital stock. No such changes in the capital stock of any such association shall be valid or binding until the same shall have been approved by the bank commissioner. No increase of the capital stock shall be approved until the amount thereof shall have been paid in cash: *Provided, however*, That such increased capital may, when authorized by all the stockholders of said bank, be paid in whole or part from its surplus or undivided profits. Whenever the capital stock of any bank shall be decreased as provided in this section, each stockholder, owner, or holder of any stock certificate shall

surrender the same for cancellation, and shall be entitled to receive a new certificate for his proportion of the new stock. No decrease of the capital stock of any such bank shall be approved unless such bank with reduced capital shall be entirely solvent, and no reduction in capital stock shall be approved to an amount less than is authorized by section 2 of this article (279). Whenever the capital stock of any bank shall be increased or decreased, as provided in this section, and the same shall have been approved by the commissioner, a certificate signed by the president and cashier of the bank, setting forth the amount of stock held by each stockholder, shall be filed with the secretary of state, with the bank commissioner, and with the corporation commission.

SEC. 283. Bank to be under control of board of directors: The affairs and business of any banking association organized under the laws of this State shall be managed or controlled by a board of directors of not less than three nor more than thirteen in number, who shall be selected from the stockholders, at such time and in such manner as may be provided by the by-laws of the association. No person shall be eligible to serve as director of any bank organized or existing under the laws of this State unless he shall be a bona fide owner of \$500 of the stock of such bank, fully paid and not hypothecated. Any director, officer, or other person who shall participate in any violation of the laws of this State, relative to banks and banking, shall be liable for all damages which the said bank, its stockholders, depositors, or creditors shall sustain in consequence of such violation. The board shall select from among their number the president and secretary, and shall select from among their stockholders a cashier. Such officers shall hold their offices for the term of one year and until their successors are elected and qualified. The board shall require the cashier and any and all officers having the care of the funds of the bank to give a good and sufficient bond, to be approved by them, and held by the state banking board. The board of directors shall hold at least two regular meetings each year, and at such meetings a thorough examination of the books, records, funds, and securities held by the bank shall be made and recorded in detail upon its record book and a certified copy thereof shall be forwarded to the bank commissioner and to each stockholder of record within ten days.

SEC. 284. Removal of officers: Any officer of a bank found by the bank commissioner to be dishonest, reckless, or incompetent shall be removed from office by the board of directors of the bank of which he is an officer on the written order of the bank commissioner.

SEC. 285. Penalty for any violation of law: The violation of any of the provisions of this act by the officers or directors of any bank organized or existing subject to the laws of this State shall be sufficient cause to subject the said bank to be closed and liquidated by the bank commissioner and for the annulment of its charter.

SEC. 286. Liability of stockholders: The shareholders of every bank organized under this act shall be additionally liable for the amount of stock owned, and no more.

SEC. 287. Limitation to investment: No bank shall employ its moneys, directly or indirectly, in trade or commerce by buying or selling goods, chattels, wares, or merchandise, and shall not invest any of its funds in the stock of any other bank or incorporation, nor make any loans or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such securities or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; after the expiration of six months, any such stock shall not be considered as part of the assets of any bank: *Provided*, That it may sell any personal property which may come into its possession as collateral security for any debt or obligation due it, upon posting a notice in five public places in the county wherein the property is to be sold, at least ten days before the time therein specified for such sale, and which said notice shall contain the name of the bank and the name of the pledgor, the date of the pledge, the nature of the default and the amount claimed to be due thereon at the date of the notice, a description of the pledged property to be sold and the time and place of sale.

SEC. 288. Reserve required—Depositories—Penalty—Savings associations: Every bank doing business under the laws of this State shall have on hand at all times in available funds the following sums, to wit: Banks located in towns or cities having a population of less than 2,500 persons, an amount equal to 20 per cent of their entire deposits; banks located in cities having over 2,500 population, an amount equal to 25 per cent of their entire deposits; two-thirds of such amounts may consist of balances due to them from good, solvent banks, selected from

time to time with the approval of the bank commissioner, and one-third shall consist of actual cash: *Provided*, That any bank that has been made the depository for the reserve of any other bank or banks shall have on hand at all times in the manner provided herein 25 per cent of its deposits. Whenever the available funds in any bank shall be below the required amount, such bank shall not increase its liabilities by making any new loans or discounts otherwise than the discounting or purchasing bills of exchange payable at sight, nor make any dividends of its profits until the required proportion between the aggregate amount of its deposits and its lawful money reserve has been restored; and the bank commissioner shall notify any bank whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such bank or association shall fail to do so for a period of thirty days after such notice, it shall be deemed to be insolvent, and the bank commissioner shall take possession of the same and proceed in the manner provided in this act relating to insolvent banks; the bank commissioner may refuse to consider, as a part of its reserve, balance due to any bank from any other bank association which shall refuse or neglect to furnish him with such information as he may require from time to time relating to its business with any other bank doing business under this act, which shall enable him to determine its solvency: *Provided*, That all savings associations which do not transact a general banking business shall be required to keep on hand at all times in actual cash a sum equal to 10 per cent of their deposits, and shall be required to keep a like sum invested in good bonds of the United States or state, county, school district, or municipal bonds of the State of Oklahoma, worth not less than par.

SEC. 289. Limit to liabilities to any bank: The total liabilities to any bank of any person, company, corporation, or firm for money borrowed, including in the liabilities of the company or firm the liabilities of the several members thereof, shall not at any time exceed 20 per cent of the capital stock of such bank, actually paid in, but the discount of bills of exchange drawn in good faith against actual existing values as collateral security and a discount of commercial or business paper actually owned by the person shall not be considered as money borrowed.

SEC. 290. Penalty for making a false report: Every officer, director, agent, or clerk of any bank doing business under the laws of the State of Oklahoma who willfully and knowingly subscribes to or makes any false report or any false statement or entries in the book of such banks, or knowingly subscribes to or exhibits any false writing on paper with the intent to deceive any person as to the condition of such bank, shall be deemed guilty of a felony, and shall be punished by a fine not to exceed \$1,000 or by imprisonment in the state prison not exceeding five years, or by both such fine and imprisonment.

SEC. 291. Officers prevented from borrowing from bank: It shall be unlawful for any active managing officer of any bank organized or existing under the laws of this State to borrow, directly or indirectly, money from the bank with which to loan to any of said persons, as well as the person receiving the same, shall be deemed guilty of a larceny of the amount borrowed.

SEC. 292. Insolvent bank prevented from receiving deposits—penalty: No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States Treasury notes, gold or silver certificates, or currency, or other notes, bills, checks, or drafts, when such bank is insolvent; and any officer, director, cashier, manager, member, party, or managing party of any bank who shall knowingly violate the provisions of this section, or be accessory to or permit or connive at the receiving or accepting of any such deposit, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment.

SEC. 293. None but banks and trust companies to receive deposits: It shall be unlawful for any individual, firm, or corporation to receive money upon deposit or transact a banking business except as authorized by this act, or by the laws relating to trust companies. Any person violating any provisions of this section, either individually or as an interested party, in any association or corporation, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$300 nor more than \$1,000, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

SEC. 294. Reports, quarterly, published: Every bank shall make at least four reports each year, and oftener if called upon, to the bank commissioner, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association and attested by the signatures of at least two of the directors. Each such report shall exhibit in detail and under the appro-

appropriate heads the resources and liabilities of the association at the close of business on any past day by him specified, and shall be transmitted to the bank commissioner within ten days after the receipt of a request or requisition therefor by him, and shall be published in the same form in which it is made to the bank commissioner within ten days after the same is made in a newspaper published in the county in which such bank is established, for two insertions, at the expense of the bank; and such proof of publication shall be furnished within five days after date of last publication as may be required by the bank commissioner. The bank commissioner shall also have power to call for special reports from any bank whenever, in his judgment, the same are necessary in order to gain a full and complete knowledge of its condition: *Provided*, The reports authorized and required by this section to be called for by the bank commissioner shall relate to a date prior to the date of such call, to be specified therein.

Sec. 295. Dividends to be reported: In addition to the reports required by the preceding sections, each bank doing business under this act shall, within ten days after the declaring of any dividends, forward to the bank commissioner a statement of the amount of such dividend and the amount carried to the surplus and undivided profit accounts, and shall forward to the bank commissioner within ten days after the 1st of January in each year, in such form as he may designate, a verified statement showing the receipts and disbursements of such bank for the preceding year.

Sec. 296. Penalty for failure to make report: Every bank which fails to make and transmit or to publish any report required under either of the two preceding sections shall be subject to a penalty of \$50 for each day after the period respectively therein mentioned that it delays to make and transmit its report or the proof of publication. Whenever any bank delays or refuses to pay the penalty herein imposed for a failure to make and transmit or to publish a report, the commissioner is hereby authorized to maintain an action in the name of the State against the delinquent bank for the recovery of such penalty, and all sums collected by such action shall be paid into the treasury of the state banking board.

Sec. 297. Banks may voluntarily place their affairs in hands of commissioner: Any bank doing business under this act may place its affairs and assets under the control of the bank commissioner by posting a notice on its front door as follows: "This bank is in the hands of the state bank commissioner." The posting of such notice or the taking possession of any bank by the bank commissioner shall be sufficient to place all of its assets and property of whatever nature in the possession of the bank commissioner and shall operate as a bar to any attachment proceedings.

Sec. 298. Banks may voluntarily liquidate: Any bank doing business under this act may voluntarily liquidate by paying off all its depositors in full, and upon filing a verified statement with the bank commissioner setting forth the fact that all its liabilities have been paid, and the surrendering of its certificate of authority to transact a banking business, it shall cease to be subject to the provisions of this act and may continue to transact a loan and discount business under its charter: *Provided*, That the bank commissioner shall make an examination of any such bank for the purpose of determining that all its liabilities have been paid.

Sec. 299. Banks—when deemed insolvent: A bank shall be deemed to be insolvent, first, when the actual cash market value of its assets is insufficient to pay its liabilities; second, when it is unable to meet the demands of its creditors in the usual and customary manner; third, when it shall fail to make good its reserve as required by law.

Sec. 300. Dividends and surplus funds—declared when: The directors or owners of any bank doing business under this act may declare dividends of so much of the net profits of their bank as they shall judge expedient, but each bank shall, before the declaration of a dividend, carry not less than one-tenth of its net profits since the last preceding dividend to its surplus fund, until the same shall amount to 50 per cent of its capital stock: *Provided*, That such dividends, if any, shall be declared on the first day of January and the first day of July of each year, and it shall be reported to the bank commissioner on forms prescribed by him.

Sec. 301. Losses charged to surplus account: Any losses sustained by any bank in excess of its undivided profits may be charged to its surplus account: *Provided*, That its surplus fund shall thereafter be reimbursed from its earnings, and no dividend shall be declared or paid by any such bank until its surplus fund shall be fully restored to its former amount.

Sec. 302. When dividends may be declared: No bank officer or director thereof shall, during the time it shall continue its banking op-

erations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have been at any time sustained by such bank equal to or exceeding its undivided profits then on hand, no dividend shall be made, and no dividend shall be declared by any bank while it continues its banking business to any amount greater than its profits on hand, deducting therefrom its losses, to be ascertained by a careful estimate of the actual cash value of all its assets at the time of making such dividends. The present worth of all maturing paper shall be estimated at the usual discount rate of the bank. Nothing in this section shall prevent the reduction of the capital stock of any bank in the manner prescribed herein.

SEC. 303. Penalty for any bank official to fail to perform duties: Every banker, officer, employee, director, or agent of any bank who shall neglect to perform any duty required by this act, or who shall fail to conform to any lawful requirements made by the bank commissioner, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not to exceed \$1,000, or by imprisonment in the penitentiary not to exceed five years, or by both such fine and imprisonment.

SEC. 304. Rewards may be offered and paid: The state banking board shall have power to offer and pay out of the depositors' guaranty fund, under such conditions as it may deem proper, and not to exceed the sum of \$500 in any one case, rewards for the arrest and conviction of any officer, agent, director, or employee of any bank charged with violating any of the laws of this State relating to banks and banking for which a criminal penalty is provided, or for the arrest and conviction of any person charged with stealing, with or without force, any money, property, or thing of value of any bank.

SEC. 305. Certified checks must be drawn—how: It shall be unlawful for any officer, clerk, or agent of any bank doing business under this act to certify any check, draft, or order drawn upon the bank unless the person, firm, or corporation drawing such check, draft, or order has on deposit with the bank at the time such check, draft, or order is certified an amount of money equal to the amount specified in such check. Any check, draft, or order so certified by the duly authorized officer shall be a good and valid obligation against any such bank, but the officer, clerk, or agent of any bank violating the provisions of this section shall be deemed guilty of a felony, and upon conviction shall be punished as provided in this act.

SEC. 306. Penalty for embezzlement: Every president, director, cashier, teller, clerk, officer, or agent of any bank who embezzles, abstracts, or willfully misapplies any of the moneys, funds, securities, or credits of the bank, or who issues or puts forth any certificate of deposit, draws any draft or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or who makes use of the bank in any manner with intent in either case to injure or defraud the bank or any individual, person, company, or corporation, or to deceive any officer of the bank, and any person who, with like intent, aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished as provided in this act.

SEC. 307. Penalty to pay overdrafts: Any bank officer or employee who shall pay out the funds of any bank upon the check, order, or draft of any individual, firm, corporation, or association which has not on deposit with such bank a sum equal to such check, order, or draft shall be personally liable to such bank for the amount so paid, and such liabilities shall be covered by his official bond.

SEC. 308. Banks may borrow money: No bank, banker, or bank official shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security: *Provided*, That any bank may borrow money for temporary purposes, not to exceed in amount 50 per cent of its paid-up capital, and may pledge assets of the bank as collateral security therefor: *Provided further*, That whenever it shall appear that a bank is borrowing habitually for the purpose of reloaning the bank commissioner may require such bank to pay off such borrowed money. Nothing herein shall prevent any bank from rediscounting in good faith and indorsing any of its negotiable notes.

SEC. 309. Impairment of capital stock: Whenever it shall appear that the capital of any bank doing business under this act had become impaired the bank commissioner shall notify such bank to make such impairment good within sixty days, and it shall be the duty of the officers and directors of any bank receiving such notice from the bank commissioner to immediately call a special meeting of its stockholders for the purpose of levying an assessment upon its stockholders sufficient to cover the requirements of its capital stock: *Provided*, That such bank, if not insolvent, may reduce its capital stock to the extent of such

impairment, if such reduction will not place its capital below the amount required by this act: *And provided further*, That the bank shall have a prior lien upon the stock of each individual shareholder to the extent of such assessment, and upon the failure of any such stockholder to pay the assessment authorized by this section within the time fixed by the bank commissioner for making good said impairment said lien may be foreclosed and the stock of such delinquent stockholder sold by giving public notice of the time and place of such sale, and of the stock to be sold, by advertisement for fifteen days in some newspaper of general circulation published in the county where such bank is located.

Sec. 310. National banks may become state banks: Any national bank doing business in this State may incorporate as a state bank, as provided herein for the organization of banks: *Provided*, That the bank commissioner may accept good assets of such national bank worth not less than par in lieu of cash payment for the stock of such state bank.

Sec. 311. Bank to keep list of its shareholders: The president and cashier of every incorporated bank shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the bank and the number of shares held by each in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the bank and the officers authorized to assess taxes under the state authority during business hours of each day in which business may be legally transacted. A copy of such list on the first Monday in January of each year, verified by the oath of such president or cashier, shall be transmitted to the bank commissioner.

Sec. 312. Commissioner may revoke charter of any bank for cause: Whenever an officer of the bank shall refuse to submit the books, papers, and effects of such bank to the inspection of the commissioner or his assistant, or shall in any manner obstruct or interfere with him in the discharge of his duties, or refuse to be examined on oath touching the affairs of the bank, the commissioner may revoke the authority of such bank to transact a banking business and proceed to wind up its business.

Sec. 313. When real estate may be purchased and sold: Any officer of any bank whose authority to transact a banking business has been revoked, as herein provided, who shall receive or cause to be received any deposit of whatsoever nature after such revocation, shall be subject to the same penalty provided for persons transacting a banking business without authority.

Sec. 314. Real estate—How conveyed: A bank may purchase, hold, and convey real estate for the following purposes: First, such as shall be necessary for the convenient transaction of its business, including its furniture and fixtures, but which shall not exceed one-third of the paid-in capital; second, such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; third, such as it shall purchase at sale under judgment, decree, or mortgage foreclosures under securities held by it; but a bank shall not bid at any such sale a larger amount than enough to satisfy its debts and costs. Real estate shall be conveyed under the corporate seal of the bank and the hands of its president or vice-president and cashier. No real estate acquired in the cases contemplated in the second and third subsections above shall be held for a longer time than five years. It must be sold at a private or public sale within thirty days thereafter.

Sec. 315. Shares—Deemed personal property: The shares of stock of an incorporated bank shall be deemed personal property, and shall be transferred on the books of the bank in such manner as the by-laws therefor may direct, but no transfer of stock shall be valid against a bank or any creditor thereof so long as the registered holder thereof shall be liable as a principal debtor, surety, or otherwise to the bank for any debt, nor in such cases shall any dividend, interest, or profits be paid on said stock so long as such liabilities continue, but all such dividends, interests, or profits shall be retained by the bank and applied to the discharge of such liability, and no stock shall be transferred on the books of any bank where the registered holder thereof is in debt to the bank for any matured and unpaid obligations.

Sec. 316. Bank can not loan on its stock: It shall be unlawful for any bank to loan its funds to its stockholders on their stock on collateral security, and the total indebtedness of the stockholders of any incorporated bank shall at no time exceed 50 per cent of its paid-up capital: *Provided*, That any bank may hold its stock to secure a debt previously contracted.

Sec. 317. Commissioner to preserve records: For the purpose of carrying into effect the provisions of this act, the bank commissioner shall provide a form for the necessary blanks for such examinations and reports; and all examinations and reports received by him shall be preserved in his office.

SEC. 318. Penalty for false swearing: Every officer or employee of a bank required by this act to take an oath or affirmation who shall willfully swear or affirm falsely shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished as provided by the laws of this State in case of perjury.

ARTICLE II.

BANKING BOARD—GUARANTY FUND.

SEC. 319. State banking board—who compose: The state banking board shall be composed of the governor, lieutenant-governor, the president of the board of agriculture, state treasurer, and state auditor. Said board shall have the supervision and management of the depositors' guaranty fund, hereinafter provided for, and shall have power to adopt all suitable rules and regulations not inconsistent with law for the management and administration of the same.

SEC. 320. Assessment for guaranty fund: There is hereby levied an assessment against the capital stock of each and every bank and trust company organized or existing under the laws of this State for the purpose of creating a depositor's guaranty fund equal to 5 per cent of its average daily deposits during its continuance in business as a banking corporation. Said assessments shall be payable one-fifth during the first year and one-twentieth during each year thereafter until the total amount of said 5 per cent assessment shall have been fully paid: *Provided, however,* That the assessments heretofore levied and paid by banking corporations or trust companies now existing shall be deducted from and credited as a payment on said 5 per cent assessment hereby levied. The average daily deposits of each bank during the preceding year prior to the passage and approval of this act shall be taken as the basis for computing the amount of the first payment on the levy hereby made. One year after the passage and approval of this act, and annually thereafter, each bank and trust company doing business under the laws of this State shall report to the bank commissioner the amount of its average daily deposits for the preceding year, and if such deposits are in excess of the amount upon which the first or subsequent payment of the levy hereby made is computed, each bank or trust company having such increased deposits shall immediately pay in the depositors' guaranty fund a sum sufficient to pay any deficiency on said first or subsequent payment, as shown by such increased deposits. After the 5 per cent assessment hereby levied shall have been fully paid up no additional assessments shall be levied or collected against the capital stock of any such bank or trust company, except emergency assessments hereinafter provided, to pay the depositors of failed banks, and except assessments as may be necessary by reason of increased deposits to maintain such funds at 5 per cent of the aggregate of all deposits in such banks and trust companies doing business under the laws of this State. Whenever the depositors' guaranty fund shall become impaired or be reduced below said 5 per cent by reason of payments to depositors of failed banks the state banking board shall have the power, and it shall be their duty, to levy emergency assessments against the capital stock of each bank and trust company doing business in this State sufficient to restore said impairment or reduction below 5 per cent; but the aggregate of such emergency assessments shall not in any one calendar year exceed 2 per cent of the average daily deposits of all such banks and trust companies. If the amount realized from such emergency assessments shall be insufficient to pay off the depositors of all failed banks having valid claims against said depositors' guaranty fund, the state banking board shall issue and deliver to each depositor having any such unpaid deposit a certificate of indebtedness for the amount of the unpaid deposit bearing 6 per cent interest. Such certificates shall be consecutively numbered and shall be payable upon the call of the state banking board in like manner as state warrants are paid by the state treasurer in the order of their issue out of the emergency levy thereafter made; and the state banking board shall from year to year levy emergency assessments as hereinbefore provided against the capital stock of all banking corporations and trust companies doing business in this State until all such certificates of indebtedness, with the accrued interest thereon, shall have been fully paid. As rapidly as the assets of failed banks are liquidated and realized upon by the bank commissioner the same shall be applied first after the payment of the expense of liquidation to the repayment to the depositors' guaranty fund of all money paid out of said fund to the depositors of such failed bank, and shall be applied by the state banking board toward refunding any emergency assessment levied by reason of the failure of such liquidated bank: *Provided, further,* That 75 per cent of the depositors' guar-

29883—8760

any fund shall be invested for the benefit of said fund in state warrants or such other securities as state funds are now required to be invested.

SEC. 320. Assessment for guaranty fund: There is hereby levied an assessment of 1 per cent of the bank's daily average deposits, less the deposits of the United States, and state funds, if otherwise secured, for the preceding year, upon each and every bank and trust company organized or existing under the laws of this State, for the purpose of creating a depositors' guaranty fund. Said assessment shall be collected upon call of the state banking board. In one year from the time the first assessment is levied, and annually thereafter, each bank and trust company subject to the provisions of this act shall report to the bank commissioner the amount of its average daily deposits for the preceding year; and if such deposits are in excess of the amount upon which 1 per cent was previously paid, said report shall be accompanied by additional funds to equal 1 per cent of the daily average excess of deposits, less the deposits of the United States Government for the year over the preceding year, and each amount shall be added to the depositors' guaranty fund. If the depositors' guaranty fund is depleted from any cause it shall be the duty of the state banking board, in order to keep said fund up to 1 per cent of the total deposits in all of the said banks and trust companies subject to the provisions of this act, to levy a special assessment to cover such deficiency, which special assessment shall be levied upon the capital stock of the banks and trust companies subject to this act, according to the amount of their deposits as reported in the office of the bank commissioner. And such special assessment shall become immediately due and payable.

SEC. 321. New banks to pay 3 per cent on capital stock: Bank and trust companies organized subsequent to the enactment of this act shall pay into the depositors' guaranty fund 3 per cent of the amount of their capital stock when they open for business, which amount shall constitute a credit fund, subject to adjustment on the basis of its deposits, as provided for other banks and trust companies now existing at the end of one year: *Provided, however,* That said 3 per cent payment shall not be required of new banks and trust companies formed by the reorganization or consolidation of banks and trust companies that have previously complied with the terms of this act.

SEC. 322. Commissioner to close up business of insolvent banks: Whenever any bank or trust company organized or existing under the laws of this State shall voluntarily place itself in the hands of the bank commissioner, or whenever any judgment shall be rendered by a court of competent jurisdiction, adjudging and decreeing that such bank or trust company is insolvent, or whenever its rights or franchises to conduct a banking business under the laws of this State shall have been adjudged to be forfeited, or whenever the bank commissioner shall become satisfied of the insolvency of any such bank or trust company, he may, after due examination of its affairs, take possession of said bank or trust company and its assets and proceed to wind up its affairs and enforce the personal liability of the stockholders, officers, and directors.

SEC. 323. Depositors to be paid in full from guaranty fund—Lien on assets: In the event that the bank commissioner shall take possession of any bank or trust company which is subject to the provisions of this act, the depositors of said bank or trust company shall be paid in full; and when the cash available, or that can be made immediately available, of said bank or trust company is insufficient to discharge its obligations to depositors, the banking board shall draw from the depositors' guaranty fund and from additional assessments, if required, as provided in section 2, the amount necessary to make up the deficiency, and the State shall have for the benefit of the depositors' guaranty fund a first lien upon the assets of said bank or trust company and all liabilities against the stockholders, officers, and directors of said bank or trust company against all other persons, corporations, or firms. Such liabilities may be enforced by the State for the benefit of the depositors' guaranty fund.

SEC. 324. Commissioner to take charge: The bank commission shall take possession of the books, records, and assets of every description of such bank or trust company, collect debts, dues, and claims belonging to it, and upon order of the district court or judge thereof may sell or compound all bad or doubtful debts, and on like order may sell all the real or personal property of such bank or trust company upon such terms as the court or judge thereof may direct, and may, if necessary, pay the debts of such bank or trust company and enforce the liabilities of the stockholders, officers, and directors: *Provided, however,* That bad or doubtful debts as used in this section shall not include the liability of stockholders, officers, and directors.

29883—8760

SEC. 325. Certificate of compliance: The bank commissioner shall deliver to each bank or trust company that has complied with the provisions of this act a certificate stating that said bank or trust company had complied with the laws of this State for the protection of bank depositors, and that safety to its depositors is guaranteed by the depositors' guaranty fund of the State of Oklahoma. Such certificate shall be conspicuously displayed in its place of business, and said bank or trust company may print or engrave upon its stationery and advertising matter words to the effect that its depositors are protected by the depositors' guaranty fund of the State of Oklahoma: *Provided, however,* That hereafter all banks operating under the guaranty law of the State of Oklahoma shall be permitted to advertise that their deposits are guaranteed by the depositors' guaranty fund, but that no bank shall be permitted to advertise its deposits as guaranteed by the State of Oklahoma, and any bank or bank officer or employee who shall advertise their deposits as guaranteed by the State of Oklahoma shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500, or by imprisonment in the county jail for thirty days, or by both such fine and imprisonment, in the discretion of the trial court.

SEC. 326. Stockholders may repair loss: After the bank commissioner shall have taken possession of any bank or trust company which is subject to the provisions of this act, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in condition so that it is qualified to do a general banking business as before it was taken possession of by the bank commissioners; but such bank shall not be permitted to reopen its business until the bank commissioner, after a careful investigation of its affairs, is of the opinion that its stockholders have complied with the laws, that the bank's credit and funds are in all respects repaired, and all advances, if any, made from the depositors' guaranty fund fully repaid, its reserve restored or sufficiently substituted, and that it should be permitted again to reopen for business, whereupon said bank commissioner is authorized to issue written permission for reopening of said bank in the same manner as permission to do business is granted after the incorporation thereof, and thereupon said bank may be reopened to do a general banking business.

SEC. 327. Guaranteed banks may become state depositories: Any bank or trust company which has complied with the provisions of this act shall be eligible to act as a depository of state funds, of any fund under the control of the State or any officer thereof, upon compliance with the laws of this State relating to the deposits of public funds.

SEC. 328. State and county depositories: Any bank duly organized under and in compliance with the laws of this State relating to banks and banking corporations and doing business in the State of Oklahoma, or any national bank organized under the laws of the United States and doing business in the State of Oklahoma, shall be qualified to become state and county depositories, when so designated according to law, by giving securities by the depositing with the proper state or county officers United States bonds or state bonds or general-fund state warrants or state special-fund warrants, or approved county or municipal bonds in the State, or approved county or school district warrants in the State, and the proper officers are hereby authorized and empowered to contract accordingly.

ARTICLE III.

BANK COMMISSIONER.

SEC. 329. Commissioner to be appointed by governor: The governor shall appoint, by and with the advice and consent of the senate, a bank commissioner, who shall hold office for the term of four years and until his successor is appointed and qualified. No officer or employee of any bank or any person interested as owner or stockholder of any bank shall be eligible to the office of bank commissioner: *Provided,* That no person shall be appointed as bank commissioner who shall not have had, prior to such appointment, at least three years' practical experience as a banker.

SEC. 330. Commissioner to give bond: The bank commissioner shall, before entering upon the discharge of his duties, take and subscribe the usual oath of office and execute to the State of Oklahoma a bond in the sum of \$25,000, with sufficient surety, for the faithful performance of his duty, to be approved and filed as provided by law.

SEC. 331. Banks must be examined twice each year: It shall be the duty of the bank commissioner, or one of his assistants, to visit each and every bank or trust company subject to the provisions of this act

at least twice each year, and oftener if he deems it advisable, for the purpose of making a full and careful examination and inquiry into the condition of the affairs of such bank, and for that purpose the bank commissioner and his assistant are hereby authorized and empowered to administer oaths, and to examine under oath the stockholders and directors and all officers and employees and agents of such banks, or other persons. The commissioner shall reduce the result thereof to writing, which shall contain a full, true, and careful statement of the condition of such bank or trust company, and file and retain the same in his office.

SEC. 332. Salary—positions created: The bank commissioner's salary shall be \$2,500 per annum and traveling expenses. There is hereby created and established eight positions, each position to be known as an assistant to the bank commissioner, and to be filled by appointment by the bank commissioner, subject to the approval of the governor, and the salary of each said assistant to the bank commissioner shall be \$1,800 per annum and traveling expenses.

SEC. 333. Fee for examination: Each and every bank so examined having not more than \$15,000 capital stock paid in shall pay a fee of \$15 for each and every examination; and each and every bank having more than \$15,000 capital stock paid in and not more than \$25,000 paid in shall pay a fee of \$20; and each and every bank having more than \$25,000 capital stock paid in and not more than \$40,000 capital stock paid in shall pay a fee of \$25; and each and every bank having more than \$40,000 capital stock paid in and not more than \$50,000 capital stock paid in, shall pay a fee of \$30; and each and every bank having more than \$50,000 capital stock paid in shall pay a fee of \$35 to the commissioner.

SEC. 334. Fees to be paid into state treasury: It shall be the duty of the bank commissioner to pay over to the treasurer of the state banking board all fees collected by him, and said banking board shall use the same, or so much thereof as may be necessary, in paying the expenses incurred in making examination of banks, subject to any of the banking laws of this State, and other expenses incurred by said banking board in the administration of said depositors' guaranty fund.

SEC. 335. Special reports may be required: The bank commissioner shall have power at any time when he deems it necessary to call upon any bank or trust company organized under the laws of this State, and upon any national bank whose depositors are protected by the depositors' guaranty fund, for a report of its condition upon any given day which is passed, or as often as the bank commissioner may deem it necessary: *Provided*, That he shall require at least four such reports during each and every calendar year. A copy of each call made by the bank commissioner shall be mailed to each such bank.

SEC. 336. Commissioner may be removed from office: Any bank commissioner or assistant bank commissioner who shall neglect to perform any duty provided for by this act, or who shall make any false statement concerning any bank, or who shall be guilty of any misconduct or corruption in office, shall, upon conviction thereof, be deemed guilty of a felony and punished in the manner provided in this act, and in addition thereto shall be removed from office.

SEC. 337. County attorney to enforce law: It shall be the duty of the bank commissioner to inform the county attorney of the county in which the bank is located of any violation of any of the provisions of this act, which constitutes a misdemeanor or felony, by the officers, owners, or employees of any bank, and upon receipt of such information the county attorney shall institute proceedings to enforce the provisions of this act.

SEC. 338. Repealing clause: All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 339. Bank—what constitutes: Any individual, firm, or corporation who shall receive money on deposit, whether on certificates or subject to check, shall be considered as doing a banking business and shall be amenable to all the provisions of this act: *Provided*, That promissory notes issued for money received on deposit shall be held to be certificates of deposit for the purpose of this act.

29883—8760