

NORTHWESTERN Banker Newsletter

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Says Community Need Is Charter Factor

The need of a community for a new bank is a factor to be considered by the Comptroller of the Currency in passing on applications for new national bank charters, the U. S. District Court for the District of South Carolina, Florence Division, has ruled.

Eleven organizers of the proposed First National Bank of Hartsville had argued before the court that the need of a community for a new banking facility was not a proper consideration for the Comptroller in passing on and rejecting their application.

The plaintiffs argued that 12 U.S.C. 21-27, which control the establishment of new national banks, make no mention of either state regulation or of community need.

The Comptroller argued that the decision to issue the certificate (for a new national bank) is committed to his discretion and among the factors to be considered in making that decision are the convenience and needs of the community to be served.

After reviewing the applicable law, Judge Robert W. Hemphill said he had "difficulty in seeing language . . . giving the Comptroller discretion in granting the certificate if the specific requirements of the act are met."

Furthermore, Judge Hemphill said he was not impressed with the "statutory language" cited by the Comptroller as making the "need of the new bank a proper consideration" in national bank charter applications.

However, Judge Hemphill said he was "impressed with the long and continued practice of the Comptroller of considering the needs of the community.

"(The court) is impressed with the necessity of that consideration if national banks are to be so regulated as to minimize bank failures with their accompanying effects on the total community. It is also impressed with the fact that the weight of authority accepts the consideration by the Comptroller of the need factor without question . . .

"Therefore, this court concludes that the need of the community for the



new bank is a factor to be considered by the Comptroller on an application for a new bank. In his determination of that question he must exercise his expertise and discretion."

Before arriving at this question, however, Judge Hemphill disposed of another argument raised by the organizers of the proposed bank — that, because the Comptroller did not hold a hearing on their application, they were entitled to a hearing and judgment *de novo* in the court.

Judge Hemphill rejected this contention on the grounds that the plaintiffs had not demanded or requested such a hearing.

Judge Hemphill noted that the Comptroller's regulations do not require a hearing to be held and that such hearing, if granted, "could have fallen short of providing plaintiffs with responsible opportunity to present their case.

"In either of those events, the plaintiffs would be entitled to present evidence in this court. However, plaintiffs did not request a hearing. Neither the record nor the argument convince the court that plaintiffs regarded the procedure utilized by the defendant as unfair. It is the result of the procedure, the defendant's determination, by which they are aggrieved.

"At this stage the court cannot say that had plaintiff asked for a hearing that an adequate one would, or would not have been provided. Though plaintiffs did not have a right to a hearing before the Comptroller, they had a right and, if they sought to rely on the absence thereof, an obligation to request such a hearing . . ."

After ruling on these two issues, Judge Hemphill found that the Comptroller's decision was "adequately supported under the substantial evidence rule" which the U.S. Fourth Circuit Court of Appeals has held to be the scope of review for appeals from rulings by the Comptroller.

"Although acknowledging that plaintiffs presented a convincing case in favor of the establishment of their bank, the court cannot say that the conclusion of the Comptroller is not adequately supported under the substantial evidence rule," Judge Hemphill wrote.

"The two examiners who conducted

COMMUNITY NEED . . .

(Turn to back page, please)



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IOWA NEWS

Robert P. Mayo, president of the Federal Reserve Bank in Chicago, will be in Iowa this week with Harry Schultz, senior vice president, and several other Fed officials for a series of three meetings in connection with the proposed clearing center in Des Moines (NWB Newsletters June 28 and July 6). The meetings will be:

September 28 — Buena Vista College, Storm Lake.

September 29 — Hotel Savery, Des Moines.

September 30 — Ramada Inn, Waterloo.

Each of the meetings will start at 9:00 a.m. with a continental breakfast.

OTTUMWA: The Federal Reserve System reports that Banks of Iowa, Inc., Cedar Rapids, has received the Board's OK for prior approval to acquire 100% of the voting shares of Union Bank and Trust Company here.

SIBLEY: Controlling interest in the Sibley State Bank has been sold to Bruce Lauritzen and his associates from Oma-

ha. Management of the bank will continue with the same personnel. Mr. Lauritzen has been elected to the board of directors, along with Darrell Green, chairman of the First Westroads Bank of Omaha. The third man involved in the purchase is Joe Latoza, an officer of Financial Service Co., Omaha. Mr. Lauritzen is a loan officer and director of First National Bank, Omaha; president and a director of Farmers Savings Bank, Shelby, Ia., and a director of Emerson State Bank, Emerson, Iowa.

SCHLESWIG: Julius A. Rohwer, chairman, Farmers State Bank, died last week. One of Iowa's veteran bankers, Mr. Rohwer was noted for his knowledge and experience in agricultural and livestock lending.

SIOUX CITY: A February, 1972 opening is planned by the Security National Bank for a ten-lane, drive-up banking facility on Pierce Street at Ninth. The new facility will be constructed on the quarter block on the northwest corner of the intersection. E. C. Thompson, Jr., president, said the increasing use of drive-up services by bank customers and

Northeast Iowa Banks

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the limited space at the bank's downtown location prompted management to purchase the property at Ninth and Pierce. Mr. Thompson said that the new installation would be the largest single drive-up banking facility in the midwest.

NEBRASKA NEWS

Group 2 of Nebraska Bankers Association meets today in Columbus and Group 1 meets Tuesday in Lincoln to conclude the six meetings. Four group meetings were held last week.

NORTH PLATTE: Application has been to the Nebraska department of banking for a state bank charter to be known as American State Bank and to be located at 420 Rodeo Road in North Platte. The principal applicant is Dean Niedan, American State Savings Company in North Platte. A hearing is slated for November 23 in the department office in Lincoln.

OAKLAND: Mrs. Frances Osterberg, 78, died September 18 and funeral services were held September 21. She was the mother of Harris V. Osterberg, secretary of the Nebraska Bankers Association.

OMAHA: The First National Bank has officially received approval to relocate its main headquarters in the new building at 1612 Dodge Street and to maintain a detached office at 302 So. 16th St., the site of its present savings department on the ground floor.

OMAHA: Southwest Bank has received

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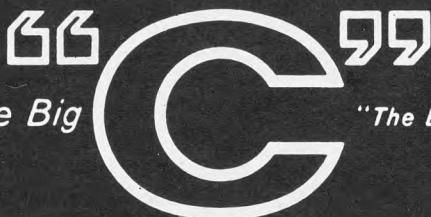
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SCHUYLER: Ronald J. Krejci reports that Schuyler State Bank recently held open house to exhibit its new addition, which houses a new work room, revamped drive-in, and new installment loan department. He also announced that Charles Heavican joined the bank staff September 20.

NORTH DAKOTA NEWS

The four group meetings of the North Dakota Bankers Association will be held October 5-8 as follows:

Northeast: Oct. 5, Devils Lake, Eagles Club. President — Harley Nash, v.p., Farmers & Merchants Nat'l., Hatton; arr. chmn. — J. B. Collinson, pres., 1st Nat'l., Devils Lake.

Northwest: Oct. 6, Watford City, 1st Internat'l. Bank. President — Leonard Jorgenson, pres., State Bank of Kenmare; arr. chmn. — R. D. Sundfor, v.p., 1st Internat'l. Bank.

Southwest: Oct. 7, Mandan, American Legion Club. President — Albert Bowman, exec. v.p., Bank of Rhame; arr. chmn. — Wm. R. Tait, pres., 1st Nat'l., Mandan.

Southeast: Oct. 8, Lisbon, Armory. President — Leo Spitzer, pres., State Bank of Streeter; arr. chmn. — Gordon Weber, pres., Farmers State, Lisbon.

Registration starts at 1:30 p.m., the call to order is at 3:30 p.m., social hour at 6:00 p.m., and dinner at 7:00 p.m.

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Bankers Area — Wide Advertising Program — Gordon Weber, pres., Farmers State, Lisbon.

Banking Education Programs — James Lewis, exec. v.p., National Bank of Harvey.

What's Happening at SBA — E. Maine Shafer, dist. dir., SBA, Fargo.

Fair Credit Reporting Act — Mel Burstein, asst. genl. counsel, Federal Reserve Bank, Mpls.

Report — Wm. J. Daner, NDBA exec. secy. & genl. counsel.

Business and election of group officers.

WYOMING NEWS

LANDER: Robert W. Finkbiner has resigned as president of First National Bank. He had owned controlling interest since moving to the bank several years ago but recently sold his interests in the bank to a group allied with Wyoming Bancorporation. The bank is in the process of being incorporated into the holding company. Mr. Finkbiner did not announce his immediate plans. He will continue as president of the Wyoming Bankers Association.

MINNESOTA NEWS

BLOOMINGTON: The Comptroller of

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the Currency's office has given approval for Northwestern National Bank of Bloomington-Richfield, Bloomington, to change its name to Northwestern National Bank, Southwest.

ST. PAUL: Officers elected at the recent state convention of the Independent Bankers Association of Minnesota are: President — George R. Francis, president, Farmers & Merchants State Bank, Cook; 1st vice president — Frank P. Pecchia, executive vice president, Northeast State Bank, Minneapolis; 2nd vice president — P. W. Bergien, president, First State Bank, Carlos.

ILLINOIS NEWS

ELMHURST: William C. Gooch, Jr., has been advanced to executive vice president and cashier at York State Bank and Trust Company. He was previously vice president and cashier. Mr. Gooch joined the bank in 1964. He is currently a member of the Governor's Advisory Committee and is president of the DuPage County Bankers Federation. A re-

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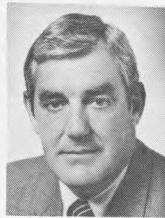
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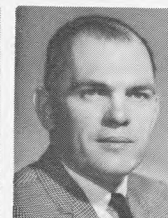
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cent addition to the York State Bank staff is Gerald R. Olson, who was appointed second vice president. He was formerly with the River Forest State Bank.

ROCKFORD: Robert K. Popple has joined American National Bank and Trust Company. He was formerly vice president of Illinois National Bank and Trust Company in Rockford, and prior to that was vice president at Bankers Trust Company in Des Moines, Iowa.

COLORADO NEWS

DENVER: The Colorado Bank Board held a hearing recently on the charter application for the proposed Frontier State Bank at E. Evans Avenue and S. Monaco Parkway. The applicants are A. I. McCroskie, Parker real estate developer; Robert W. Hatch, Denver area merchant; Dr. Merrill O. Dart, Englewood physician; John R. Toops, Englewood accountant, and John E. Wren, Englewood wholesale distributor.

The board also was expected to take action on one or more of seven other pending charter applications.

COMMUNITY NEED . . .

(Continued from page 1)

field investigations, the Chief Examiner of the South Carolina Bank Control Board, and the first vice-president of the Federal Reserve Bank in Richmond, all

recommended that the application be denied.

"The statistics submitted on existent banking facilities in the area and the economic growth of the area are subject both to the interpretation given by the plaintiffs and to that of defendant . . . (The court) is of the opinion, after reading from the record, that although the Comptroller may have erred, there is substantial basis for his determination, and that it was neither capricious nor arbitrary."

Judge Hemphill, therefore, granted summary judgment for the Comptroller. However, his decision may be appealed.

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