

NORTHWESTERN Banker Newsletter

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Reject Challenge on Minnesota Branch

While state law comes into play in deciding "how, where and when" branches of both national and state banks may be operated, Federal law alone determines what constitutes a branch of a national bank, the U.S. District Court for the District of Minnesota, Third Division, has ruled.

Following this rule, the Court, rejected a challenge by Minnesota's Commissioner of Banks, the Chairman of its Commerce Commission, the Independent Bankers of Minnesota, and Commercial State Bank claiming that Northwestern National Bank of St. Paul was operating more than one branch bank in violation of state and federal banking laws.

Minnesota law prohibits branch banking but permits state banks to operate one "detached facility." Northwestern National Bank operates two paying and receiving facilities other than at its main banking floor — the first consisting of three walk-up television tellers in a building approximately 300 feet from its main banking office; the second consisting of six teller stations in a building approximately one and one-half blocks from its main bank office.

Each of the facilities — the first the Skyway facility, and the second, Endicott facility — is within a twelve block skyway system providing covered passageways between business places in the downtown St. Paul loop.

The Comptroller of the Currency approved Northwestern's plans for the Skyway facility in 1965, finding it was not a "branch" under Federal law but

merely an extension of the main banking premises. At that time, Minnesota law prohibited state banks from branching in any form, including operation of a detached facility.

In 1971, a new law was enacted permitting state banks in Minnesota to establish a single "detached facility" apart from their chartered premises for paying and receiving functions. The new law provided that state banks already operating a detached facility would be restricted to that one existing facility.

Seven days after the new law took effect, Northwestern applied to the Comptroller for permission to establish a "detached facility" — the so-called Endicott facility. It was subsequently approved by the Comptroller although opposed by the plaintiffs on the ground a second detached facility would be an illegal branch under state, and therefore, federal law.

The Comptroller took the position that he was only obligated to determine whether the Skyway facility was a branch under federal law, which he did in 1965; that he could reply on that determination without referring to the new state law when deciding Northwestern's application for the Endicott facility in 1971; and that his 1965 determination was valid unless found to be "arbitrary, capricious or not in accordance with law."

U.S. District Judge Edward J. Devitt first found there was "adequate support in the record" for the Comptroller's 1965 conclusion that the so-called



PICTURE OF THE WEEK — Harrison Salisbury, New York Times editor, and John A. Moorhead, chairman of the board, Northwestern National Bank of Minneapolis, held a reunion at the bank's 8th annual management conference in Minneapolis recently. The two men attended the University of Minnesota together. Mr. Salisbury spoke on government and politics at the Conference.

"Skyway facility" was an "integral part of the main bank premises" and not a branch. He then turned to the "remaining issue" of whether, "in considering the Endicott application in 1971, the Comptroller was to be governed by state or federal law."

"In considering the Endicott application in 1971 (the Comptroller) was not obligated to reconsider his 1965 decision in the light of a branch bank or 'detached facility' as set out in the 1971 law (albeit that definition might be interpreted as fitting the Skyway facility)," Judge Devitt concluded. "His obligation was to be guided by the Federal Statute,

(Continued on Page 3)

Happy Holidays

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IOWA NEWS

BEAMAN: David G. Loupee has joined the Farmers Savings Bk. as ag rep. and mgr., insurance sales. He was formerly with DeKalb Seed.

CLEAR LAKE: Jim Schulze has accepted a position as vice pres. of the Community State Bk. He has been a state bank examiner in Grinnell.

DANVILLE: The Danville State Sav. Bk. held open house in its new building recently.

COUNCIL BLUFFS: The state banking dept. has approved the app of the State Bk. and Tr. Co. to purchase the assets of the Modale Sav. Bk. An office will be maintained at Modale.

DES MOINES: Iowa State Bank has filed application for an office at 3818-3830 Frederick M. Hubbell Ave.

DES MOINES: The next meeting of the state banking board will be Thursday, December 21.

DES MOINES: Group I will hold its meeting in Sioux City, February 10. The Group II meeting will be in Burlington, February 23-24. The May groups will be May 7-10 and May 21-25. Group 3 will be at Clear Lake, May 23. Other meeting places will be determined soon.

Northeast Iowa Banks

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nb National Bank of Waterloo

DAVENPORT: Northwestern Bank & Tr. has filed application for an office at Kimberly Road and Fair Ave.

ELDRIDGE: Elmer J. Hamman has been named farm rep for Central Tr. & Sav. Bk. He has been a director for 12 years and has farmed in the area for 36 years.

GOODELL: Robert Isensee of Mason City has filed application to merge the First Nat'l. Bk., Klemme with the State Sav. Bk., Goodell, and moved the combined bank to Belmond.

HOSPERS: The banking dept. is continuing with the application to move the Hospers Sav. Bk. to Sioux Center.

POLK CITY: Ribbon cutting at the new Polk City Savings Bank building will be at 10 A.M. today (Monday, Dec. 18). Formal open house will be planned later.

MUSCATINE: Official groundbreaking for the new full service office of Central State Bank, near the Plaza Shopping Center, took place recently.

WEBSTER CITY: Farmers National Bank has filed application with the Comptroller for a facility at 830 Second Street.

WINTERSSET: The Union State Bank has moved to its new home at West Court and Second Avenue. A formal open house will be held at a later date.

NEBRASKA NEWS

BEATRICE: The Comptroller has approved an application of The Beatrice National Bank for permission to establish a facility at 523 North 6th St., Beatrice.

LITCHFIELD: A hearing will be held by



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the Nebraska Department of Banking of a charter application for the State Bank of Litchfield on December 22.

VALLEY: Robert D. Pease, former asst. v.p. at The First National Bank of Wahoo, is the new cashier of The Bank of Valley. The Valley bank has recently installed a new time and temperature sign.

HAYES CENTER: Van E. Korell has purchased 124 shares out of 350 in the First National Bank from Florence R. Counce and Sheil Counce Nicklas.

ILLINOIS NEWS

ELGIN: Robert Abate has purchased 24,000 shares out of a total of 48,000 in The Elgin Nat'l. Bk. from Robt. Holt, Doyne Sunderman, Earl Gromer and others.

NILES: Golf-Mill State Bank moves to its new building at 9101 Greenwood Ave. today (Monday, Dec. 18).

PLAINFIELD: Robert E. Pilcher and John C. Kingsbury have purchased 5,753 shares of stock in the Plainfield Nat'l. Bk. from Marcella K. Brownson and 54 others. Total shares in the bank are 10,000.

STONINGTON: A state application has been filed to organize the Stonington Community Bank at a capitalization of \$400,000. Applicants include W. B. Beck, T. A. Black, A. D. Crist, L. B. Curtin, H. P. Myers, all of Stonington, and six others.

TUSCOLA: Earl E. Van Steenhuyse has purchased 520 shares out of a total of 600 in the First Nat'l. Bk. & Tr. Co. from George A. Edwards and four others.

COLORADO NEWS

MONTROSE: Rodger D. Knight, Jr., chairman of the board of United Banks of Colorado, Inc., has announced that The Montrose National Bank has changed its name to United Bank of Montrose. The change reflects the bank's affiliation with the state's largest Colorado-based financial company, United Banks of Colorado, Inc.

United Bank of Montrose joined the holding company in October, 1972. It

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has assets of over \$8 million; United Banks has assets in excess of \$1 billion.

United Banks of Colorado, Inc., has also filed an application requesting approval to acquire the National Bank of Delta.

NORTH DAKOTA NEWS

DEVILS LAKE: Open house was held last week by Western State Bank in its new building.

DEVILS LAKE: The Ramsey Nat'l. Bk. has changed its name to The Ramsey National Bank and Trust Company of Devils Lake.

SOUTH DAKOTA NEWS

MADISON: The National Bank of South Dakota has announced two staff changes. Gene Odenbret, former manager of the Security Insurance Agency, has been promoted to assistant cashier and loan officer. He will be replaced in the insurance division by Selber L. Hagen. Mr. Hagen worked at the Bank of Lemmon for 12 years as manager of the insurance department.

RAPID CITY: Reynold Klay has been named executive vice president of the Western Division of National Bank of South Dakota. He succeeds Walter Pailing, who retired November 30. He was formerly senior v.p.

POSITION WANTED

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REJECT CHALLENGE....
(Continued from Page 1)

12 U.S.C. §63(f). Authority for this is clearly stated in . . . (First National Bank in Plant City, Fla., v. Dickinson) where the Court stated:

"We reject the contention made by amicus curiae National Association of Supervisors of State Banks to the effect that State law definitions of what constitutes 'branch banking' must control the content of the federal definition of 36(f)."

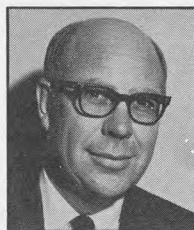
"To permit the Minnesota Legislature to define the Skyway facility as a branch or 'detached' facility and to obligate the Comptroller to apply that law would permit the legislature to overrule the prior decision of the Comptroller that it was not a branch under federal law. Then state, not federal law, would govern the content of the term

'branch.' This would be contrary to the teachings of Dickinson, supra.

"Speaking for the Court, Chief Justice Burger, while allowing that under the federal statute, state law does come into play in deciding how, where, and when branch banks may be operated, said:

"But to allow the states to define the content of the term 'branch' would make them the sole judges of their own powers. Congress did not intend such an improbable result, as appears from the inclusion in §36 of a general definition of 'branch'. At page 343 of 90 S. Ct."

"At an earlier date the United States Supreme Court had occasion to observe concerning the national character of national banks and of the exclusive character of congressional authority over them. The Court said that national banks . . . are not to be interfered with by



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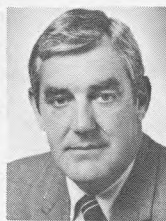
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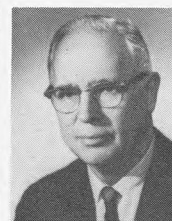


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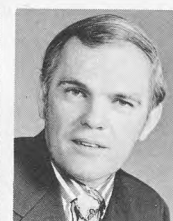
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state legislature or judicial action, except so far as the lawmaking power of the government may permit' . . .

"That the lawmaking power of the government has not authorized the states to define a 'branch' bank is made clear by the Supreme Court in its later decision in Dickinson, supra. The status of the law was succinctly stated recently by the Court of Appeals for the Tenth Circuit . . . when it said, 'What constitutes a branch of a national bank is to be determined by the definition in §36(f), not local law.'"

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