

NORTHWESTERN Banker Newsletter

Vol. 13 No. 12

Des Moines, Iowa

July 9, 1984

NDBA Joins Appeal of 1936 Law

BANKS are getting far too much experience with foreclosures and bankruptcy proceedings, especially ag banks, under current laws that practically encourage certain borrowers to file for bankruptcy. Other borrowers faced with the frustration of losing their business or farm have found special laws they hope will give them one more chance.

Such is the situation in North Dakota where the case of *United Bank of Bismarck vs. Martineson* is pending in District Court in Burleigh County. The North Dakota Bankers Association on June 18 filed a brief as an *amicus curial* (friend of the court). The NDBA reports that the lawsuit involves a foreclosure action taken by United Bank on a farm real estate mortgage. The defendants have raised the provisions of Chapter 28-29, NDCC (relief from defaults and hardships), as a defense to the foreclosure. NDBA says "if the defendants are successful with this defense, it could have an effect far beyond this case. This defense would probably then be raised in cases all over the state."

United Bank of Bismarck has questioned the constitutionality of the provisions of Chapter 28-29 "and NDBA's brief concerns only these constitutionality issues."

At issue is a North Dakota law enacted in 1936 to respond to the

devastating effects of the Great Depression on agriculture in that state. Similar laws were passed in other midwestern states. Iowa, for example, passed a similar type law in 1939 that allowed farm owners a year of grace from interest and principal payments if certain conditions were present. One Iowa farm couple invoked the 1939 law this past spring and was upheld by the courts, thus giving them another year to try to reestablish a more acceptable financial status with their bank. Because of restrictive conditions in the law, only a limited number could use the law.

In North Dakota, however, the 1936 law appears to be quite different. Under the title, "Power of Courts When Prices Are Confiscatory," this is the wording of the North Dakota law:

"Until the price of farm products produced in this state shall rise to a point to equal at least the cost of production, in comparison with the price of other commodities in general, entering into the business of agriculture, the Supreme Court of this state and all District and County Courts in this state shall have power, when it is deemed for the best interest of litigants, to extend the time for serving and filing all papers requisite and necessary for the final determination of any cause. Any such Court, in like manner, may

stay the entry of judgment on the issuance of execution thereon, or may defer the signing of any order for judgment, or may defer terms of Court, whenever in the judgment of the Court the strictly legal procedure in any cause will confiscate or tend to confiscate the property of any litigant by forcing the sale of agricultural products upon a ruinous market."

It has been pointed out the language of the 1936 law is so loose that it doesn't even specify the ag products a given farmer is raising. One attorney expressed the opinion that he could also apply this law to his own mortgage loan. Another question raised is, "How do you determine the cost production." Additionally the North Dakota law does *not* specify any terminal date within which such relief would be granted, as compared to the Iowa law which limits relief to one year. Theoretically, it is said, the ambiguity in the language could allow a borrower seeking relief under the law to defer payment of interest and principal for two or more years if price conditions, as determined by the Court, are still not adequate to assure appellant of adequate price return.

Then NDBA hopes to have its *amicus curial* status accepted so it may join with United Bank in testing the constitutionality of the 48-year old law. □

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Dorothea Wolfe

Iowa News

BELLE PLAINE: Wayne J. Parizek, agriculture loan officer for Citizens State Bank, has been promoted to vice president, according to Richard H. Bueneke, president. In addition, Ruth Ann Shedenhelm has been promoted to assistant vice president from assistant cashier.

DES MOINES: Mike Deege, senior vice president and trust officer of the Bankers Trust Company, has been elected president of the Iowa Trust Association for 1984-85. Mr. Deege has been actively involved with the Iowa Trust Association for the past seven years.

RED OAK: Jerald D. Solberg has



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been named president and chief executive officer of Montgomery County National Bank, effective July 16. He succeeds Mark R. Mayne, who has resigned to pursue his MBA, but will continue as a director. Mr. Solberg has served as executive vice president and director of the bank since 1982. Also at the bank, Kenneth Rech has been named vice president as of August 15. He has served on the board of directors since 1982.

STORM LAKE: First Leasing Company, an affiliate of Citizens First National Bank of Storm Lake, has appointed C.D. "Chuck" Kapsch as its new manager. He previously was sales manager for A.O. Smith Harvestore, Inc. of Humboldt.

KNOXVILLE: John Jensen has joined Community National Bank & Trust Company as vice president with major responsibility in ag lending. He previously was employed by the Farmers Home Administration and served the past six years as county supervisor for Marion County.

STANHOPE: John A. Walker, bank president and director of Farmers State Bank, retired July 1 after nearly 28 years with the bank. Norm Skadburg succeeds Mr. Walker as the the bank's new president and will continue as president of First State Bank in Webster City. Bob Van Diest was elected chairman of

the board and Jeff Plagge was named executive vice president and cashier. Also, Doug Follman was elected assistant vice president. He previously was with First State Bank, Gowrie. An open house will be held, at a date yet to be announced, to honor the retirement of Mr. Walker.

Nebraska News

BRADSHAW: Thomas G. Damkroger has been appointed manager and cashier of The First National Bank of Bradshaw, effective today, July 9. He replaces Clifford Zelif, who has served as cashier and manager since 1963. Mr. Zelif is retiring for health reasons. Mr. Damkroger has served as an agricultural loan officer of First National Bank of York for the past year and prior to that was with Hallem Bank.

BELDEN: Gene Munson has been appointed vice president and senior loan officer of First National Bank here. He most recently was with Farmers Home Administration in Norfolk. First National also advanced David G. Hay to chief executive officer, Larry D. Alderson to vice president and loan officer and Mary J. McLain to cashier. Mr. Hay previously was executive vice president and cashier.

MADISON: Bruce Kuenning has joined Farmers National Bank of Madison as vice president and loan officer. He previously was with The Onawa State Bank in Onawa, Iowa.

OMAHA: Charles Mullenhoff has been elected senior vice president in charge of ag correspondent banking for North Side Bank. Mr. Mullenhoff will remain officed in Leigh and will be calling on banks in Nebraska and Western Iowa.

OMAHA: At FirstTier Mortgage Co., Karen J. Kennedy, who heads

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the loan administration division, was promoted to vice president. Larry J. Richling also was promoted to vice president. He has been with First Tier Mortgage since 1977.

Minnesota News

BURNSVILLE: Gordon Clarke has been elected president and chief executive officer of First Bank Burnsville and president of First Bank Northfield. He succeeds Newton Fuller who has taken a position of expanded managerial responsibility in the Twin Cities metro banking division. Mr. Clarke is currently president of First Bank Havre, Montana, a position he has held since 1977. He began his career with First Bank System in 1953 when he joined First Bank Minneapolis as an adjuster.

ST. CLOUD: Henry Mareck recently retired as president and chairman of the board of Zapp National Bank. Mr. Mareck joined the bank staff as a bookkeeper in 1946 and was named president in 1977, succeeding Edward Zapp, Sr. Succeeding Mr. Mareck as president and chairman of the board is John Leisen. He has been a member of the bank staff since 1962 and previously served as executive vice president.

Illinois News

PEORIA: Midwest Financial Group, Inc., has elected David R. Leitch a vice president. Mr. Leitch, a vice president of Commercial National Bank of Peoria, will be responsible for MFG public affairs, press relations and government relations.

CHICAGO: Newly elected vice presidents of Continental Illinois National Bank are: Doug Dieli, economic research; Mary Ann Lain, commercial banking operations; Michael Chiarito, check processing; James Klute, controllers; and Eduardo Monteagudo, personal banking services.

Wisconsin News

MILWAUKEE: First Wisconsin Trust Company has announced the election of Marvin R. Swentkofske as first vice president and head of the investment group of the Trust Company. He replaces Willard L. Wheeler, Jr., who resigned to accept another position. Mr. Swentkofske previously was president of Seagate Capital Management, Toledo, Ohio.

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North Dakota News

GRAND FORKS: Bremer Financial Services, Inc. has announced the addition of Kent Larson to its staff as senior credit reviewer with responsibility for the nine First American banks in the North Dakota region. Mr. Larson has had lending experience with banks in Wahpeton and Grand Forks plus three years as a bank examiner with the North Dakota Department of Banking.

nancing division of the bank for the past year.

MOORCROFT: T.S. Kugler has joined Moorcraft State Bank as vice president. He joins the bank from the Farmers State Bank and Trust Company of Lexington, Neb., where for the past year he has been assistant vice president. Prior to that he spent three years at the Ranchester State Bank in Ranchester.

Wyoming News

CASPER: Robert L. Sutter and Roger Curtis have been elected presidents of Hilltop National Bank and Mountain Plaza National Bank, respectively. Both banks are owned by Midland Financial Corporation. N.P. Van Maren, Jr., former president of the two banks, has been elected vice chairman of Hilltop and Mountain Plaza. Mr. Sutter has been with Hilltop since 1976. Mr. Curtis has been at Mountain Plaza since it opened in 1981.

Montana News

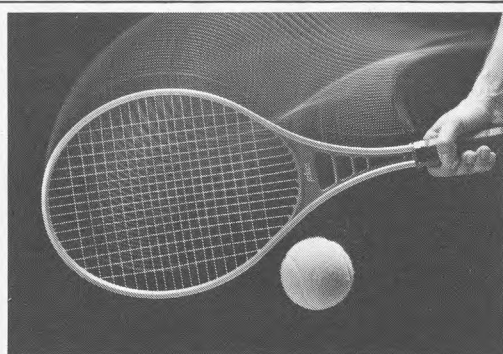
Charles Pedersen, chairman and president of First Interstate Bank of Great Falls, was elected president of the Montana Bankers Association for 1984-85, during their annual convention held the end of June. Mr. Pedersen succeeds Robert Sizemore, president of Western Bank of Chinook. New vice president for the association is Richard Timmerman, president, First Bank Butte, and the new treasurer is W.E. "Buster" Schreiber, chairman, president and CEO, Mountain Bank of Whitefish.

CASPER: Gary Sloan was recently promoted to vice president of the construction loan department of the First Interstate Bank of Casper. Formerly a construction loan officer, he has been with the real estate fi-

GREAT FALLS: The four for one stock split previously announced for distribution on July 20 to stockholders of Bank of Montana System

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of record on June 29, 1984, has been indefinitely postponed, according to Samuel R. Noel, president. Mr. Noel reported that in light of market fluctuations in bank holding company stocks generally and other factors, the board of directors voted to give further consideration to the benefits and the timing of any stock split.

HELENA: Mike Cronin has been promoted to administrative assistant of the Montana Bankers Association. In that function he will assume many of the office's administrative duties and will be second in responsibility for the staff. Mr. Cronin will continue to serve as director of communications and editor of the Big Sky Banker. Also, Michelle Patterson has joined the MBA staff as director of education. Ms. Patterson will serve as staff member liaison for most of the MBA committees and will be responsible for the planning of MBA meetings, conferences and annual convention.

ANACONDA: Don Clark, senior vice president for First Security Bank, was recently promoted to executive vice president of the bank. Mr. Clark has been with the bank since 1972 and was promoted to senior vice president and senior credit officer in 1982.

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