

# THE ABC OF THE NI

By

Charles Dearing, Paul T. Homa

Lewis L. Lorwin

and

Leverett S. Lyon

The activities of the National Recovery Administration have touched every American citizen. The attitude of business men and workers has been centered in Washington as new forms of economic organization have been devised and new relationships have developed between business competitors, between employers and employees, between buyers and sellers, between business interests and the Government.

The Recovery Act was a part of the Roosevelt administration's attack upon the depression. But the significance of the development under it goes far beyond the immediate concern with economic recovery. The economic philosophy of collective action is at work which may greatly modify the structure of American industry and the outlines of American economic life.

The primary purpose of the present volume is to present the background and content of the Recovery Act, and to give a clear and simple picture of the activities of the Recovery Administration. No attempt of the work of the NRA is attempted, but the outlines of the great issues of public policy appear.

Price, \$1.50

Published by

THE BROOKINGS INSTITUTION

Washington, D. C.



GIPE-PUNE-082589

**SERVANTS OF INDIA SOCIETY'S, LIBRARY,  
POONA 4**

Cl. No. **X62:(Z).73.N3** Date of release for loan  
Ac. No. **82589 G4**

This book should be returned on or before the date last mentioned below.

*Failure to comply will involve cancellation of the Borrower's Card and forfeiture of deposit.*

20 NOV 1962  
11 DEC 1962  
17 DEC 1962

THE INSTITUTE OF ECONOMICS  
OF  
THE BROOKINGS INSTITUTION

PUBLICATION No. 58

For a full list of publications see the end of the book.

## THE BROOKINGS INSTITUTION

The Brookings Institution—Devoted to Public Service through Research and Training in the Social Sciences—was incorporated on December 8, 1927. Broadly stated, the Institution has two primary purposes: The first is to aid constructively in the development of sound national policies; and the second is to offer training of a super-graduate character to students of the social sciences. The Institution will maintain a series of co-operating institutes, equipped to carry out comprehensive and inter-related research projects.

The responsibility for the final determination of the Institution's policies and its program of work and for the administration of its endowment is vested in a self-perpetuating Board of Trustees. The Trustees have, however, defined their position with reference to the investigations conducted by the Institution in a by-law provision reading as follows: "The primary function of the Trustees is not to express their views upon the scientific investigations conducted by any division of the Institution, but only to make it possible for such scientific work to be done under the most favorable auspices." Major responsibility for "formulating general policies and co-ordinating the activities of the various divisions of the Institution" is vested in the President. The by-laws provide also that "there shall be an Advisory Council selected by the President from among the scientific staff of the Institution and representing the different divisions of the Institution."

### BOARD OF TRUSTEES

NORMAN H. DAVIS	HAROLD G. MOULTON
FREDERIC A. DELANO	JOHN BARTON PAYNE
CLARENCE PHELPS DODGE	LESSING ROSENTHAL
JEROME D. GREENE	LEO S. ROWE
MORTON D. HULL	BOLTON SMITH
VERNON KELLOGG	HARRY BROOKINGS WALLACE
JOHN C. MERRIAM	JOHN G. WINANT

### OFFICERS

FREDERIC A. DELANO, *Chairman*  
LEO S. ROWE, *Vice-Chairman*  
HAROLD G. MOULTON, *President*  
LEVERETT S. LYON, *Executive Vice-President*  
HENRY P. SEIDEMANN, *Treasurer*



**CLOSED AND DISTRESSED BANKS**

**CLOSED AND DISTRESSED BANKS**  
**A Study in Public Administration**

**BY**  
**CYRIL B. UPHAM**  
**AND**  
**EDWIN LAMKE**

**THE BROOKINGS INSTITUTION**

**1934**

COPYRIGHT, 1934, BY  
THE BROOKINGS INSTITUTION

---

Set up and printed

Published November, 1934

All rights reserved including the right of reproduction  
in whole or in part in any form

X62:(Z).73.N3

G4

82589

*Printed in the United States of America*  
George Banta Publishing Company  
Menasha, Wisconsin

## DIRECTOR'S PREFACE

This volume is the second of a series of current studies of significant developments in the financial system of the United States; the first being *Current Monetary Issues*, by Leo Pasvolsky, which was published last December. The two publications are more closely related than might appear at first glance. The monetary changes discussed by Mr. Pasvolsky coincided with the breakdown of the country's banking system, which forms the principal subject matter of the present volume. Moreover, there is a direct relationship between the rehabilitation of the banks and the underlying monetary policy of the government.

The present study is primarily concerned with the problems of administrative control involved in the reorganizations and liquidations which follow bank suspensions. It does not concern itself with the causes of bank failures. Some attention is given to the broad economic and social consequences of bank failures, and to methods of dealing with the suspended institutions, especially the newly developed institutions and procedures by which the aid of the federal government has been extended.

This series of studies is under the general supervision of Charles O. Hardy. Others who have served with the Director as a committee co-operating with the authors in the preparation of the volume are Harold G. Moulton and Laurence F. Schmeckebier. We have also had the aid of an advisory committee of the Social Science Research Council.

EDWIN G. NOURSE  
*Director*

Institute of Economics  
November 1934

## AUTHORS' ACKNOWLEDGMENTS

The authors make grateful acknowledgment to the many individuals who have aided in the preparation of this study. They are indebted to Senator Carter Glass of Virginia for permission to use the Report of the Federal Reserve Committee on Branch, Group, and Chain Banking. This unpublished material was of great assistance in furnishing the statistical basis for a considerable portion of the analysis. The officials of the Reconstruction Finance Corporation, the Federal Reserve Board, the Office of the Comptroller of the Currency, and other federal organizations, as well as those of numerous state banking supervisory agencies, have been generous, not only in giving much of their time, but also in furnishing factual materials. Particularly helpful were the State Banking Departments of Maryland, Massachusetts, Michigan, New York, and Virginia.

Special acknowledgment is due Mr. Eugene S. Duffield for permission to use his compilation of the capital obligation issues of the hundred largest banks, and to Professor Earl Fullbrook for making available a copy of the master's thesis on "Reorganization of State Banks in Nebraska" prepared at the University of Nebraska by Herman Seifkes. William Snoeyenbos merits special mention for his assistance to professor Howard H. Preston in the preparation of Appendix D, while Adah L. Lee has made invaluable contributions to the entire manuscript.

CYRIL B. UPHAM  
EDWIN LAMKE

## CONTENTS

	PAGE
DIRECTOR'S PREFACE .....	vii
AUTHORS' ACKNOWLEDGMENTS .....	ix
<b>PART I. BANK FAILURES</b>	
CHAPTER I	
BANK SUSPENSIONS IN THE UNITED STATES .....	3
I. National and State Bank Failures .....	4
II. Federal Aid to Distressed Banks .....	6
III. Moratoria, Holidays, and Emergency Measures .....	9
IV. The Crisis of 1933 .....	12
CHAPTER II	
THE SUPERVISION OF CLOSED NATIONAL BANKS .....	17
I. Historical Development .....	17
II. Procedure .....	20
III. Conflict in Jurisdiction .....	29
CHAPTER III	
THE SUPERVISION OF CLOSED STATE BANKS AND TRUST COMPANIES .....	30
CHAPTER IV	
CONTROL AFTER THE HOLIDAY .....	45
I. Licensing .....	45
II. Conservatorships .....	48
III. Control by the Federal Deposit Insurance Cor- poration .....	56
<b>PART II. LIQUIDATION</b>	
CHAPTER V	
THE LIQUIDATION PROCESS .....	61
I. The Selection of Receivers .....	61
II. Conflicting Claims .....	65
III. Newer Methods of Liquidation .....	69
CHAPTER VI	
THE EXPENSES OF LIQUIDATION .....	78

*CONTENTS*

<b>CHAPTER VII</b>	
LOSSES TO DEPOSITORS .....	85
<b>CHAPTER VIII</b>	
LOSSES TO SHAREHOLDERS .....	94
I. Enforcement of Double Liability .....	95
II. Estimated Losses to Stockholders, 1921-32 .....	101
III. The Abandonment of Double Liability .....	105
<b>PART III. REORGANIZATION AND REOPENING OF CLOSED BANKS</b>	
<b>CHAPTER IX</b>	
REORGANIZATION PROCEDURE PRIOR TO 1933 .....	113
I. Statistical Record of Reorganizations .....	114
II. Development of Reorganization Procedure: National Banks .....	117
III. Development of Reorganization Procedure: State Banks .....	118
<b>CHAPTER X</b>	
REORGANIZATION AFTER THE BANK HOLIDAY .....	124
I. The Straight Rehabilitation Plan .....	126
II. The Waiver and Sale Plan .....	129
III. State Reorganization Plans .....	134
IV. The Number of Reorganizations .....	140
<b>PART IV. FEDERAL FINANCIAL AID TO DISTRESSED BANKS</b>	
<b>CHAPTER XI</b>	
RFC LOANS TO OPEN BANKS .....	145
I. Procedure .....	145
II. Amount of Loans to Open Banks .....	146
III. Effects of Loans on the Number of Failures .....	148
IV. Attempts to Prevent the Bank Holiday .....	151
V. Distribution of Loans .....	157
VI. Control of Management .....	160
<b>CHAPTER XII</b>	
RFC LOANS TO CLOSED BANKS .....	162
I. Procedure .....	164

## CONTENTS

xiii

II. Amount of Loans . . . . .	171
III. Loans to Free Public Deposits . . . . .	173
IV. Distribution of Loans by Regions and by Class of Banks Concerned . . . . .	174
V. Margin Requirements and Delay . . . . .	177
VI. Agitation for the Pay-Off . . . . .	181
CHAPTER XIII	
RFC CAPITAL INVESTMENTS IN BANKS . . . . .	188
I. Procedure . . . . .	188
II. Amount of Purchases . . . . .	194
III. Effect on Capital Structure and Bank Control . . . . .	198
CHAPTER XIV	
AID BY OTHER FEDERAL AGENCIES . . . . .	208
I. The Farm Credit Administration . . . . .	209
II. The Home Owners' Loan Corporation . . . . .	212
III. The Federal Deposit Insurance Corporation . . . . .	218
CHAPTER XV	
RESULTS OF FEDERAL AID . . . . .	220
I. Directs Benefits to Bank Depositors and Bor- rowers . . . . .	220
II. The Expansion of Bank Credit . . . . .	224
III. Restoration of Purchasing Power . . . . .	227
IV. Aid to Banks and Treasury Financing . . . . .	229
V. Federal Control of the Banking System . . . . .	234
APPENDIXES	
APPENDIX A	
BANK FAILURES . . . . .	245
I. Bank Failures and Capital Involved, 1864-96 . . . . .	245
II. Geographic Distribution of Bank Failures, 1864- 96 . . . . .	246
III. Bank Suspensions Compared with Number of Active Banks, 1897-1933 . . . . .	247
IV. Percentage Ratio of Payments to Claims of Un- secured Depositors of National Banks Liqui- dated, 1921-30 . . . . .	248



## CONTENTS

V. Percentage Ratio of Payments to Claims of Un- secured Depositors of State Banks Liquidated, 1921-30 .....	249
VI. Bank Suspensions During 1921-31, by Volume of Loans and Investments .....	250
VII. Bank Suspensions, 1921-33 .....	250
APPENDIX B	
SUPERVISION OF STATE BANK LIQUIDATION, 1909 ..	251
APPENDIX C	
LICENSED BANKS, 1933-34 .....	255
I. Number and Deposits of Licensed Member Banks, March 15, 1933 .....	255
II. Number and Deposits of Licensed Banks, April 12, 1933 .....	256
III. Number and Deposits of Licensed Banks, De- cember 27, 1933 .....	257
IV. Number and Deposits of Licensed and Un- licensed Banks, June 27, 1934 .....	258
APPENDIX D	
BANK REORGANIZATION AND LIQUIDATION IN THE STATE OF WASHINGTON .....	259
INDEX .....	283

**PART I**  
**BANK FAILURES**

CHAPTER I  
BANK SUSPENSIONS IN THE  
UNITED STATES

The bank holiday of March 1933 marked the culmination of a long era of industrial and agricultural readjustment which weakened, and finally almost destroyed, the solvency of the American banking system. The failure of 10,000 banks, with deposits of nearly 5 billion dollars, in the years 1921-32, and the temporary closing of all banks by proclamation of the President on March 6, 1933, are sufficiently recent to be vividly recalled.

We present here the results of a study of the problem of governmental control which has resulted from these and previous failures. We shall not discuss the causes of the failures, and only incidentally their broader economic and social consequences; our interest is in what happens to the banks, to their depositors, and to their stockholders after the suspension occurs—both with respect to reorganization and reopening in cases where they occur, and with respect to liquidation otherwise. We are also interested in the efforts of federal and state governments to prevent bank failures, whether by extension of financial aid to distressed banks, or by relieving them of the obligation to make immediate payment to their depositors, through moratoria, holidays, and similar devices.

As a background for a study of the governmental policy with respect to distressed banks some preliminary survey of the record of bank suspensions is necessary. In

Appendix A we present a somewhat detailed historical summary of the record of bank failures. Here we shall merely summarize very briefly the pre-war record, and indicate the way in which the tide of failures rose during the post-war era and culminated in the banking crisis of 1933.

#### I. NATIONAL AND STATE BANK FAILURES

During the years from 1864 to 1896 there were only 328 failures in national banks and 1,234 failures in state banks. Over one-half the national bank failures occurred during the years from 1891 to 1896 inclusive. State bank failures were more evenly distributed, though there were peak figures of 261 in 1893 and 115 in 1895. About one-fourth of the failures, both state and national, were in the so-called Western Grain states—Minnesota, the Dakotas, Iowa, Nebraska, Missouri, and Kansas. Outside these states the principal areas of concentration were New York, with 34 national and 92 state bank failures; Pennsylvania, with 20 national and 162 state bank failures; and Illinois, with 15 national and 121 state bank failures.

From 1897 to 1919, with rising prices and general industrial prosperity, the bank mortality was very low, the only years in which more than 100 failures were recorded being 1908, with 19 national and 83 state bank failures, or a total of 102; 1914, with 15 national and 107 state bank failures, or a total of 122; and 1917, with 20 national and 93 state bank failures, or a total of 113. In 1920 the total rose to 143, 7 national and 136 state, and from 1921 on the figures were very much higher than they had ever been before. For the nine years 1921-29 the total number of national bank failures was 766 and state bank failures 4,645. Finally, during the depression years 1930-33 there was another

enormous increase, the total for the four years being 1,385 national and 5,319 state. These suspensions involved an aggregate of 7 billion dollars of deposits, as is shown in the accompanying table.

During the post-war era, 1921-29, as in earlier years, the region of heaviest bank mortality was the Western Grain group of states. Industrial states during the same period had relatively few failures. For example, sus-

BANK SUSPENSIONS IN THE UNITED STATES, 1864-1933<sup>a</sup>  
(Dollar items are in thousands)

Period	National Banks		State Banks		All Banks	
	Number	Deposits	Number	Deposits	Number	Deposits
1864-1920 <sup>b</sup> ..	584	...	2,411	...	2,995	...
1921-29.....	766	\$ 363,414	4,645	\$1,205,680	5,411	\$1,569,064
1930-33 <sup>c</sup> ....	1,385	1,881,116	5,319	3,573,148	6,704	5,454,294

<sup>a</sup> Unless otherwise noted data are from *Bank Suspensions in the United States, 1892-1931*, Federal Reserve Committee on Branch, Group, and Chain Banking, pp. 12, 14, and 132.

<sup>b</sup> For 1864-96 data, see Table 1, p. 245.

<sup>c</sup> Data for 1933 are from *Federal Reserve Bulletin*, April 1934, p. 251. Figures for this year include banks restricted after having been licensed, although they do not include banks to which licenses had not been issued. The inclusion of restricted banks prevents the figures for this year from being strictly comparable with those for other years.

pending banks in nine wealthy industrial states had aggregate loans and investments of only 213 million dollars, compared with 678 millions for suspended banks in seven agricultural states. After 1929 a tremendous wave of failures set in in industrial states. In the three years 1930-32, loans and investments of suspended banks in nine industrial states amounted to over 2 billion dollars; Pennsylvania headed the list with 476 million, Illinois was second with 465 million. Suspensions in agricultural states continued to be heavy throughout the depression period. The table on page 6 shows the loans and investments of suspended banks by groups of

states for these two periods. Further details, including data on size of suspended banks and the distribution of deposits between member and non-member banks, are given in Appendix A.

LOANS AND INVESTMENTS OF SUSPENDED BANKS, 1921-32\*

Region and State	1921-29		1930-32	
	In Thousands of Dollars	As Percentage of 1921-32	In Thousands of Dollars	As Percentage of 1921-32
<b>WESTERN GRAIN STATES</b> .....	<b>678,635</b>	<b>59.7</b>	<b>458,168</b>	<b>40.3</b>
Minnesota.....	112,619	72.2	43,334	27.8
North Dakota.....	74,096	80.4	18,098	21.9
South Dakota.....	114,118	78.1	31,940	19.6
Iowa.....	188,417	45.8	223,320	54.2
Nebraska.....	74,832	60.2	49,423	39.8
Missouri.....	64,496	50.7	62,648	49.3
Kansas.....	50,057	63.0	29,405	37.0
<b>SELECTED INDUSTRIAL STATES</b> .....	<b>213,347</b>	<b>8.5</b>	<b>2,302,766</b>	<b>91.5</b>
Illinois.....	61,307	11.6	465,440	88.4
Michigan.....	5,985	3.4	169,628	96.6
Indiana.....	38,230	21.1	143,361	78.9
Ohio.....	26,692	7.4	333,624	92.6
Pennsylvania.....	39,138	7.6	476,640	92.4
New York.....	16,553	4.3	368,514	95.7
New Jersey.....	6,546	5.6	109,918	94.4
Massachusetts.....	14,664	8.9	149,254	91.1
Connecticut.....	4,232	4.7	86,387	95.3
<b>ALL OTHER STATES</b> .....	<b>906,534</b>	<b>45.9</b>	<b>1,068,346</b>	<b>54.1</b>
<b>UNITED STATES</b> .....	<b>1,798,516</b>	<b>32.0</b>	<b>3,829,280</b>	<b>68.0</b>

\* Figures for 1921-31 from *Bank Suspensions in the United States*, pp. 145-46; for 1932 compiled from unpublished data on file in the Division of Bank Operations, Federal Reserve Board.

II. FEDERAL AID TO DISTRESSED BANKS

Up to 1932 the federal government was connected with the banking system in only a general supervisory capacity. The constantly increasing seriousness of the financial depression led to a growing sentiment for the establishment of a new organization to lend funds to hard-pressed financial and other institutions.

It was at first anticipated that a self-help organiza-

tion, with the stronger banks aiding the weaker, but without Treasury assistance, would suffice. And so in 1931 the National Credit Corporation was formed at the suggestion of President Hoover. This was a private corporation owned by banks. It soon became obvious, however, that the stronger commercial banks were either unwilling or unable, or both, to provide enough funds to protect the weaker ones in the face of the constant withdrawals of deposits. The decline in deposits of all banks in the last half of 1931 was almost 6 billion dollars, or nearly five times the loss in the first half of that year. There had been practically no decline during 1930.<sup>1</sup> Money in circulation increased over 800 million dollars in the last half of 1931, indicating a large conversion of bank deposits into cash.<sup>2</sup> The last half of 1931 also witnessed 1,611 bank suspensions, more than twice the number in the preceding six months, and more than the total for any previous complete year. In the last three months of the year 1,055 banks failed, indicating that the situation was increasing in severity. Deposits involved during the last six months amounted to \$1,270,648,000; during the last three months to \$816,370,000.<sup>3</sup> But the National Credit Corporation had loaned only 155 million dollars to 575 institutions by January 27 of the next year.<sup>4</sup> It seemed clear, therefore, that government aid was necessary if a complete banking collapse was to be avoided.

On January 22, 1932 the Reconstruction Finance Corporation Act was passed.<sup>5</sup> The institution it created

<sup>1</sup> *Annual Report of the Federal Reserve Board*, 1931, p. 88.

<sup>2</sup> The same, p. 69.

<sup>3</sup> The same, pp. 125-26.

<sup>4</sup> *New York Times*, Jan. 28, 1932.

<sup>5</sup> Entitled "An Act to Provide Emergency Financing Facilities for Financial Institutions, to Aid in Financing Agriculture, Commerce, and Industry, and for Other Purposes," 47 Stat. L. 5.

was patterned after the War Finance Corporation. As enacted, Section 5 of this law authorized loans "to any bank, savings bank, trust company" and to other financial institutions

. . . including loans secured by the assets of any bank that is closed, or in process of liquidation to aid in the reorganization or liquidation of such banks, upon application of the receiver or liquidating agent of such bank and any receiver of any national bank is hereby authorized to contract for such loans and to pledge any assets of the bank for securing the same: *Provided*, That not more than 200 million dollars shall be used for the relief of banks that are closed or in the process of liquidation.

The act further provided that all loans should be fully and adequately secured, that the Corporation could make such provisions as it deemed necessary for the administration of collateral, and that foreign securities and acceptances should not be acceptable collateral. It forbade advances to a single corporation or its affiliates of an amount greater than 5 per cent of the capital of the RFC.<sup>6</sup>

Loans were to be made for not more than three years, renewable for two years. Loans could be made over a period of one year from the date of enactment, and this period could be extended one year by the President.<sup>7</sup> The Treasury, the Comptroller, the Federal Reserve Board, and the Federal Reserve Banks were authorized to make available to the RFC any information in their possession regarding financial institutions, and to make examinations of such institutions for the Corporation. A later act provided that no loans were to be made or renewed if any employee of the applicant was receiving compensation in excess of what appeared reasonable to the RFC.<sup>8</sup>

<sup>6</sup> Amended to  $2\frac{5}{8}$  per cent by 47 Stat. L. 714. See also 48 Stat. L. 141.

<sup>7</sup> This extension was made by President Hoover.

<sup>8</sup> 48 Stat. L. 120.



A description of the procedure of the RFC and the statistical record of its activities will be found in Chapters XI-XIII. Here we note only that the new organization was successful in bolstering depositors' confidence and checking the flood of bank failures for nearly a year. There were only 46 bank failures in March 1932, the lowest number since October 1929. The number of closings remained relatively low until the end of the year. But after the turn of the year the situation grew rapidly worse. In January and February 389 banks failed. Moreover, these figures understate the gravity of the crisis, for they do not include the banks that were closed by local holidays.

### III. MORATORIA, HOLIDAYS, AND EMERGENCY MEASURES

On the occasion of various conflagrations, including the Chicago fire of 1871, the Boston fire of 1872, the Baltimore fire of 1904, and the San Francisco earthquake and fire of 1906, when it was virtually impossible for banks to operate, recourse was had to the legal holiday.<sup>9</sup> At the time of the Baltimore fire, the Governor of Maryland, by proclamation, declared a legal holiday, extending from February 8 to February 22. After the San Francisco catastrophe, the Governor of California proclaimed continuous legal holidays over a period of several weeks. Later, in the panic of 1907, the governors of a number of Western states declared state-wide moratoria or legal holidays for banks. There were also several times of panic when the banks on their own authority restricted payments or tendered to depositors clearing-house certificates instead of legal-tender money. The Oregon law of 1930 probably was the first official recognition that there existed an emergency which could not

<sup>9</sup> *Annual Report of the Comptroller of the Currency, 1872, p. xxiv; Thomas P. Kane, Romance and Tragedy of Banking, 1922, pp. 59, 249.*

well be dealt with through the usual routine of bank administration. Under this law the officers of a bank were allowed to suspend payments for 60 days, during which period they were to attempt to arrange with depositors for voluntary restrictions for a longer period.<sup>10</sup>

Florida passed an emergency act in 1931. After stating as a general proposition that a bank "should by no means be allowed to close by reason of an unjustified run" this act authorizes any state bank, "in the event it senses a run," to limit withdrawals, with the consent of the State Comptroller, to the amount of 20 per cent of deposits. It is made the duty of the Comptroller to grant such permission immediately upon request. Banks which operate under this provision subject themselves to examination. If they are found solvent, a declaration to the public to that effect by the Comptroller and a continuance of the restriction are provided for, the latter not to exceed 90 days "unless in the discretion of the Comptroller a case of extreme necessity exists."<sup>11</sup> A bank operating under withdrawal limitations is permitted to receive new "trust-account" deposits not subject to the limitation, but may not "negotiate or make any other or further loans of whatsoever kind or nature." Indeed, it is required, immediately upon placing such limited liability in force, "to collect its loans and marshal its assets under the direction of the Comptroller, and prepare to meet its obligations to its depositors in full."<sup>12</sup>

By June 1932 at least three other states, Massachusetts, Michigan, and Virginia, had passed laws of this general character, and similar measures had been proposed in Illinois and New York.

In 1932 the custom of declaring local moratoria or

<sup>10</sup> Ore. Code Ann., 1930, Sec. 22-1903.

<sup>11</sup> Acts of 1931, Chap. 14647 (No. 9).

<sup>12</sup> The same.

holidays for a few days or a week or longer became fairly common among the mayors of small towns and cities in the Middle West. Many of them were arranged under the guise of celebrations of the bicentennial of George Washington's birth. Depositor waivers were frequently arranged for in the interim, and the banks reopened. There had always been doubt as to the strict legality of the proclamation of a bank holiday by the governor of a state; there was rather general agreement that such action on the part of a city official was wholly without warrant of law. The Attorney-General of Minnesota ruled that the banks of that state might not take advantage of these local holidays, and that the Bank Commissioner might, in his discretion, appoint receivers for those that did. The auditor of Illinois made a similar ruling. For the most part, however, the state bank commissioners, as well as the Comptroller of the Currency, winked at the practice and took no action.

Both the Comptroller of the Currency and the state bank supervisors had eased the burden on the banks by mitigating the rigors of examination, especially by waiving the ordinary rules for writing off depreciation on bonds and securities, permitting portfolios to be carried at much higher figures than current market quotations.

In connection with local banking holidays or moratoria, various expedients have been adopted to keep banks open. In most of such cases there has been resort to a restriction on withdrawals if not an actual waiving or relinquishment of the right to a percentage of deposits. In many places in the Middle West five years was adopted as the duration of the waiver. The existence of these waiver agreements has been an element of uncertainty in current efforts to reorganize some of these same banks a second time.

In recommending that the Indiana Commission for

Financial Institutions be given power to regulate the "withdrawal of funds from any financial institution" to which the banking act of that state is applicable, the Study Commission for that state said:

The problem of hysterical "runs" by bank depositors is one that received the utmost consideration from the Study Commission. Early in 1932 waves of panic swept through certain sections of the United States. They reached such proportions that solvent banks in 22 states were forced to restrict their payment to depositors in order to keep from closing their doors. In most instances, such action on the part of the bank was without legalization.<sup>13</sup>

The situation as summarized from questionnaires sent to the state bank departments by the Indiana Commission is given in the accompanying table. It is probable that the figures considerably understate the extent of restrictions.

#### IV. THE CRISIS OF 1933

The local holidays and emergency acts permitting deposit restrictions were not adequate to cope with the seriousness of the situation. State-wide holidays came next. The first of the state-wide banking holidays of 1932-33 was declared on October 31, 1932 when the Governor of Nevada authorized the banks of that state to close for twelve days.<sup>14</sup> This holiday followed the suspension of the Wingfield chain of twelve banks, nearly half the 26 banks of the state, with approximately half of their resources. At the expiration of the first twelve-day holiday, it was necessary to extend the period for an additional three weeks. Not all of the Nevada banks took advantage of the moratorium.

<sup>13</sup> *Report of the Indiana Study Commission for Financial Institutions*, created by the 77th General Assembly, 1932, p. 83.

<sup>14</sup> Nearly a year before this a state-wide moratorium in a Southern state had been narrowly averted by prompt action of the National Credit Corporation.

## BANK SUSPENSIONS

13

### BANKS RESTRICTING PAYMENT OF DEPOSITS UP TO MAY, 1932\*

State	Number of Banks	Number of Banks with Restricted Withdrawals	
		On All Accounts	On Savings Accounts
Alabama.....	220	1	—
Arkansas.....	329	2	1
Colorado.....	150	4	2
Connecticut.....	191	—	50
Delaware.....	45	—	<sup>b</sup>
Georgia.....	323	1	—
Idaho.....	96	—	—
Illinois <sup>c</sup> .....	1,221	...	...
Indiana.....	705	200	<sup>d</sup>
Kansas.....	806	—	—
Kentucky.....	419	20	20
Louisiana.....	191	1	2
Maine.....	79	—	—
Michigan.....	639	50	—
Minnesota.....	752	50	2
Mississippi.....	280	6	40
Missouri.....	1,110	12	—
Montana.....	122	7	—
Nebraska.....	602	—	—
New Hampshire.....	65	—	3
New Mexico.....	27	—	—
New York.....	566	—	4
North Dakota.....	254	—	—
Oklahoma.....	320	8	—
Rhode Island.....	25	—	—
South Carolina.....	138	—	56
South Dakota.....	279	5	5
Tennessee.....	380	—	—
Texas.....	700	50	—
Vermont.....	58	1	—
Virginia.....	306	11	—
Washington.....	228	—	6
West Virginia <sup>e</sup> .....	...	...	...
Wisconsin.....	781	19	19
Wyoming.....	58	—	—
Total.....	12,465	448	210

\* *Report of the Indiana Study Commission for Financial Institutions*, p. 83. Data compiled from questionnaires sent to the 48 state banking departments. No replies were received from 13 states.

<sup>b</sup> Usual notice required.

<sup>c</sup> The Banking Department of Illinois could give no detailed information as to any restrictions but it is known that some banks in that state took this step. Examples are the institutions of Urbana and Aurora.

<sup>d</sup> Uncertain.

<sup>e</sup> No definite information as to actual number of banks on a restricted basis. Practically all the banks in the northwestern part of West Virginia adopted the rule of restricted withdrawals. All banks in Martinsburg adopted the rule; also banks in Parkersburg and Wheeling.

house certificates; to continue trust activities and fiscal agency operations; to subscribe to Treasury issues; to accept substitute collateral; and to carry on activities necessary to provide the necessities of life.<sup>18</sup>

The history of what happened to the banks in 1933 is summarized in the following data. Banks in the 12 Federal Reserve cities reopened March 13; those in cities having recognized clearing houses—about 250 cities—on March 14; and banks elsewhere on March 15. No official figures are available, however, for the number of banks which reopened without restrictions on March 16. An Associated Press estimate gave the number on this date, including some banks on a restricted basis, as 13,000.<sup>19</sup> The earliest official figures for reopened banks are those of the Federal Reserve Board, which report 12,817 licensed banks with deposits of over 31 billion dollars as of April 12. Approximately 4,200 banks with deposits of nearly 4 billion dollars were unlicensed on this date.<sup>20</sup> The numbers of banks suspending before and after the holiday are shown in the table on page 15. On December 30, 1933 there remained unlicensed 1,905 banks with deposits of \$1,202,420,000. Approximately 1,500 banks were reorganized during 1933, their deposits totalling about \$1,200,000,000.

<sup>18</sup> Secretary of the Treasury, Regulations 1-19, Mar. 6-11, 1933.

<sup>19</sup> See Marcus Nadler and Jules I. Bogen, *The Banking Crisis*, 1933, pp. 177-78. The Federal Reserve Board reports only licensed member banks as of this date. See Appendix C.

<sup>20</sup> See pp. 46, 47, and Appendix C.

## CHAPTER II

### THE SUPERVISION OF CLOSED NATIONAL BANKS

The administration of closed banks, like most phases of bank administration, is complicated by the division of responsibility between the national and the state supervisory systems. In this and the following chapter we survey the development of the two systems and indicate the progress which has been made in the direction of centralization of responsibility and unification of the practices followed in the administration of banks in the two systems while they are closed. In later chapters we consider the procedure used in terminating these control arrangements, either by reorganization or by liquidation.

#### I. HISTORICAL DEVELOPMENT

So far as the national banking system is concerned, the centralization of administration of closed banks and its unification with the work of supervision of solvent operating institutions was accomplished at the outset. The National Bank Act of 1864 provided for the appointment of receivers by the Comptroller of the Currency. The appointment of a receiver was at first tied up with the redemption of circulating notes. "If any association," the act read, "shall fail . . . to redeem its notes as aforesaid, the Comptroller of the Currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in this act, to wind up its affairs."<sup>1</sup>

Although failure to redeem their circulating notes on

<sup>1</sup> Act of June 3, 1864, Sec. 32; 13 Stat. L. 113.

demand was the only specific reason offered by the National Bank Act for the appointment of receivers for the new institutions, other causes did as a matter of fact bring about such action by the Comptroller. Indeed, since national bank notes were fully secured, there seemed little necessity for redemption difficulties to force bank closings. Thomas P. Kane writes:

It appears that in the early years of the [national banking] system, when a bank became insolvent or subject to a receivership for some other cause, it was the practice to obtain and present for redemption at the bank's counter one of its circulating notes. By agreement between the bank and a representative of the Comptroller's office, the bank would refuse to redeem the note and the note would then be protested, thus affording a statutory ground for the appointment of a receiver.<sup>2</sup>

In his 1866 report the Comptroller of the Currency recommended an amendment to the act which would authorize the appointment of a receiver whenever satisfactory evidence was furnished that the association in question was not carrying on the proper business of banking, that reports required by law were false or fraudulent, that funds had been wilfully misapplied by officers or directors in violation of law, or that the bank had committed any act of insolvency.<sup>3</sup> Again in 1873 he suggested to Congress the necessity for a law authorizing the appointment of a receiver for an insolvent bank when such insolvency became evident from the protest of drafts or otherwise, or when its charter had been forfeited following suit under that section of the act which provided for such action, if the directors should "knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate," any of

<sup>2</sup> *Romance and Tragedy of Banking*, p. 60.

<sup>3</sup> *Annual Report of the Comptroller of the Currency*, 1866, p. xii.



the provisions of the act.<sup>4</sup> The following year the recommendation was made that the Comptroller be authorized to wind up the affairs of a bank if its capital was seriously impaired, if it were not engaged in the transaction of a legitimate and reputable business, or if it had obtained its organization through false or fraudulent representations.<sup>5</sup>

In 1876 a law was enacted which fulfilled a number of these recommendations. It provided that whenever a national bank should have lost its charter through suit, as described above, or whenever a creditor's judgment had gone unsatisfied for 30 days, or whenever the Comptroller should become satisfied of the bank's insolvency, a receiver might be appointed.<sup>6</sup> A receiver may also be appointed for any of the following violations of law:

Where the capital stock of a national bank has not been fully paid in and it is thus reduced below the legal minimum and remains so for 30 days. (R.S., Sec. 5141.)

For failure to make good the lawful money reserve within 30 days after notice. (R.S., Sec. 5191.)

Where a bank purchases or acquires its own stock to prevent loss upon a debt previously contracted in good faith, and the same is not sold or disposed of within six months from the time of its purchase. (R.S., Sec. 5201.)

For failure to make good any impairment in its capital stock and refusing to go into liquidation within three months after receiving notice. (R.S., Sec. 5205.)

For false certification of checks by any officer, clerk, or agent. (R.S., Sec. 5208.)

An act of April 23, 1930 provides for the appointment of a receiver for a national bank which "shall discontinue its banking operations for a period of 60 days." The

<sup>4</sup> Act of June 3, 1864, Sec. 53; 13 Stat. L. 116.

<sup>5</sup> *Annual Report of the Comptroller of the Currency*, 1874, p. viii.

<sup>6</sup> Act of June 30, 1876, Sec. 1; 19 Stat. L. 63.

<sup>7</sup> 46 Stat. L. 250.

Banking Act of 1933 authorizes the Comptroller to appoint receivers or conservators for national banks which have not, by July 1, 1935, become Class A stockholders of the Federal Deposit Insurance Corporation.<sup>8</sup> He may also appoint, after 30 days' notice, receivers or conservators for national banks which violate the provisions of the Banking Act of 1933 with respect to the size of directorates or the required stockholdings of directors.<sup>9</sup> Moreover, although there is no specific authorization for the appointment of a receiver, the equivalent seems to be provided in the sections of this act by which all rights, privileges, and franchises of national banks are made subject to forfeiture for refusal to permit examination of an affiliate or to give information required in the course of such an examination; and for the continued violation, for six months after being warned by the Federal Reserve Board, of the provision prohibiting security affiliates after June 16, 1934.

The law of 1876 made no provision for the termination or continuance of the receivership after creditors had been paid in full. Such provision was supplied by the act of August 3, 1892, and later amended by the act of March 2, 1897, which provided that a meeting of shareholders should decide whether further operations should be conducted by the receiver or by an agent elected by the stockholders.

## II. PROCEDURE

In the office of the Comptroller of the Currency there has long been a Division of Insolvent Banks. The chief of this division, who is known as supervising receiver, has built up a corps of experts in the liquidation of banks,

<sup>8</sup> Banking Act of 1933, as amended by Public No. 362, 73 Cong.

<sup>9</sup> Sec. 31. An amendment of June 16, 1934 repealed the provisions of this section relating to stock ownership of directors. 73 Cong., Public No. 362.

who are compensated on a salary basis, and who are kept constantly employed in receivership work, being transferred from one city to another as occasion requires.

When the liquidation of a closed bank has proceeded to a point where there has been a substantial disposition of assets, it is the policy of the Comptroller's office to combine it with other similar receiverships, under the supervision of a single member of the staff of the Division of Insolvent Banks. While the great numbers of bank suspensions in the years 1929-33 made necessary the appointment of many relatively inexperienced receivers, the nucleus of trained professional receivers made the difficulties of those years less serious than they would otherwise have been.

The task which faces the receiver who is appointed to wind up the affairs of a closed bank may be described in simple terms as that of realizing upon the assets of the institution and paying over the proceeds to the depositors and other creditors and the balance, if any, to stockholders. This simple statement does not reflect by any manner of means, however, the excessively complicated tangle of rights and obligations which must be contended with in every receivership.

The very fact of insolvency adds to this complexity. The loans, discounts, and investments of the bank form a cross-section of the commercial life of the whole community. The business difficulties and legal entanglements of every debtor of the bank become of immediate practical importance. The receiver is usually not in position to deal with many of these situations as effectively as the officers of a going institution might be. It is perhaps natural that when persons are obligated to a closed bank they are more inclined to press for a scaling down of the debt than when obligated to an operating bank. The

necessity of winding up all transactions finally and within a reasonable time operates to place the receiver at a bargaining disadvantage. The difficulties are increased in depression years, of course, when liquidations are most numerous.

A striking picture of the difficulties facing the receiver is contained in the Comptroller's report for 1897:

. . . A receiver is appointed, and at once begins an earnest effort to bring order out of confusion so far as possible, and to realize the utmost possible for the creditors from a rather hopeless mass of what generally proves to be slow or doubtful, or absolutely worthless assets. The commercial paper which comes into his hands is always slow, and most of it either doubtful, bad, or absolutely worthless. With this mass of paper, much of which requires litigation to collect either in whole or in part, the receiver finds his position one of perplexity and frequently of disappointment. The creditors are importunate, the debtors proverbially and almost universally obdurate. With generally no cash on hand to start with, the best commercial paper either rediscounted or hypothecated as collateral security, and often burdened with unsalable real estate, the receiver begins his work of making what collections he can from this mass of almost inconvertible assets. As a rule he is successful, and the records show how much more has been realized from the assets of failed national banks than from those of any other class of banking institution or other business undertakings.<sup>10</sup>

*First duties of a receiver.* As a guide in the confusion which usually attends the first few days of a bank receivership, the Comptroller has listed a few of the preliminary steps which should be taken by the receiver immediately upon assuming charge of the bank, unless they have already been taken care of by the examiner who was in temporary charge before the appointment of the receiver.

<sup>10</sup> *Annual Report of the Comptroller of the Currency, 1897, Vol. I, p. xxvi.*

The receiver should (1) take personal possession of all assets, books, records, and property found in the bank; (2) seal all desks, and surrender no papers, documents, or property until convinced his trust has no interest in them; (3) notify correspondent banks by wire to stop payment on drafts drawn by the closed bank; (4) seal vaults and safes until their combinations have been changed; (5) change the keys to the post-office box; (6) allow no entries to be made on the books of bank; (7) have "indorsement without recourse" stamp made, in order properly to transfer items for collection; (8) ascertain from owners of items received for collection from other banks, their wishes as to disposition, or, time not permitting this, collect such items with particular attention to presentment and protest.

In handling matters which usually arise in the first few weeks of a receivership the receiver should (1) protest all paper with more than one name if not paid on maturity date, unless protest is clearly unnecessary; (2) examine all items of collateral to see whether they are properly assigned, and have all stock and bonds pledged as collateral transferred on the books of the corporations concerned to the receiver as pledgee, so that he will receive dividends, if any; (3) notify the Comptroller of any evidence of criminal acts discovered; (4) explain to the owners or renters of safe deposit boxes that their contents cannot be surrendered until it has been ascertained that the trust has no interest in them; (5) remit all cash for credit to the Treasurer of the United States, except that necessary for current expenses; and (6) prepare for the Comptroller a concise statement of the cause or causes of the failure of the bank.

*Collection and sale of assets.* The receiver of a national bank is charged by the National Bank Act with the

duty of collecting all debts due and claims belonging to it, and, upon the order of a court of competent jurisdiction, to sell or compound all bad or doubtful debts, and to sell all real and personal property.<sup>11</sup>

The approval of the Comptroller and an order of a court of record of competent jurisdiction must be obtained before any assets, real or personal, may be sold. In the sale of assets, receivers are charged with exercising the same care as a prudent business man would exercise in dealing with his own goods. Any speculation with assets is discouraged. Generally speaking and under normal conditions, assets should be converted into cash for disposition as early as practicable. However, in the heavy bank closings since 1930, and especially in 1933, there has been a general acceptance of the theory that frozen assets of closed banks should be liquidated in orderly fashion over a period of years, if not actually held for anticipated higher prices.

In February 1932 the Comptroller of the Currency announced that a board had been set up in New York City through which sales of bonds of closed national banks would be concentrated. Some of the states have adopted this method of centralized sale of certain types of non-local assets as well.

Sometimes offers are made for all of the assets of a receivership as a lot. The receiver must then use particular care to ascertain their value. The purchaser, too, will doubtless want to inspect the books and records of the bank. Occasionally an offer of this kind is made to cloak a desire to have access to the bank's records. That should be guarded against. The Comptroller must always be consulted, and a court order must be obtained. Shareholders should be notified of the intention to apply

<sup>11</sup> R.S., Sec. 5234.

for an order so that they may interpose objections, if they wish. Under the usual procedure the prospective purchaser guarantees a certain bid at public sale, and the court order is for sale for an amount not less than this guaranteed bid.

The approval of the Comptroller and an order of a court of record of competent jurisdiction are necessary for the sale of real estate by the receiver. The sale should not only be authorized by the court but confirmed by it, after the sale has been completed.

Securities which are held by receivers as collateral may be sold upon the terms of the agreement by which the collateral is pledged. The Comptroller's approval should first be secured. In many instances protection may be secured by having the receiver bid in the collateral at the sale.

*Extensions and compromises.* Extensions of time for the payment of obligations due to the bank should be charily made and only when they will further the interests of the creditors by materially increasing the amount collected. In all extensions there should be some new consideration given the bank, and the Comptroller must approve each one before it is allowed. A compromise should be accepted only when the receiver is certain the debt cannot be collected in full, and in each case a court order must be obtained.

*Proof of claims.* Holders of claims against the bank are encouraged to file them promptly. Most claims are easily established, especially those of depositors, if the books of the bank have been properly kept. Those that do not appear on the books frequently arise from irregularities and greater care is necessary before they are approved. Claims which are good on their face or the validity of which is readily established may be allowed

by the receiver; it may be necessary to submit others to the Comptroller for specific instructions.

When claims have been established, receivers' certificates are issued. These certificates may be assigned, unless they have been marked non-transferable. This notation is used on those given to depositors who are stockholders, and dividends thereon are withheld, unless security is given, in view of the stockholders' liability on assessment. The certificates may be withheld from claimants whose liabilities to the bank have not been satisfied in full.

*Information.* Receivers are cautioned "under no circumstances" to give out information. "Secrecy must be maintained," the Comptroller instructs. Great injury may be caused, it is asserted, by giving out information which subsequently may prove erroneous, particularly with respect to the percentage creditors will receive or the time when they will receive it.

This refusal to give information to depositors is one of the most frequent causes of criticism of the conduct of bank receiverships. It is continually being charged that both oral inquiry and written communication evoke no replies. The Comptroller's instructions require courtesy and tact in refusing information, but if disgruntled depositors are to be given credence, this admonition is not always heeded. True it is that the receiver has a great deal to contend with, and in many cases the progress of the receivership would be seriously retarded if he devoted his time to endless conversations with depositors.

The answers of the present Comptroller of the Currency, J. F. T. O'Connor, to two of six questions submitted to him by the *New York World-Telegram* in 1933 give the official position on this subject.



QUESTION: Why, after a receiver is appointed, is the depositor still denied all facts about the bank, including its assets, loans, etc.? In sharp contrast, the New York State Banking Department, within a week or so after it takes over the bank, files a complete inventory of assets. None of the dire things happen which national receivers always say would result if they gave out a list of the bank's loans or assets.

ANSWER: The depositors and creditors are not denied "all facts about the bank, including its assets, loans, etc." Quarterly statements are issued by the receiver showing the condition of the bank from the standpoint of its assets and liabilities and the progress of liquidation up to that date including the amounts and classes of collections and disbursements.

The receivers are not permitted to publish a list showing the names of either the debtors who owe the bank or the depositors and creditors having claims against the bank, and the respective amounts thereof. The relation between the bank and its depositors and debtors was confidential at the time the dealings were had with the bank by the parties affected, and we do not consider it proper that such confidence should be breached as a result of the receivership of the bank.

We do not feel it advisable to issue any statement concerning the probable value of the assets or the amount of dividends anticipated to be paid inasmuch as such statement would be a matter of estimate only, which may not subsequently be realized in actual liquidation, and it can readily be appreciated that if the *actual* dividends should be less than the published *estimated* dividends, there would in most instances be disappointment and dissatisfaction on the part of the creditors. A more important consideration is that if a definite evaluation as to the amount of dividends to be paid upon the deposits were hazarded and published, it would be an inducing factor toward speculation in receiver's certificates and claims against the suspended bank, and in many instances the depositors would be the victims of persons who prevailed upon them to part with their certificates and claims at a substantial sacrifice.

The failure to publish the names of the debtors owing the bank has no effect upon enforcement of their liability. Where a debtor is able to pay he generally does so, and if he refuses to

do so, suit is filed against him to compel payment. This procedure is followed by the Comptroller, acting through the receiver, as a matter of course, incident to the performance by the Comptroller, as a federal officer, of the duties imposed upon him by Congress.

QUESTION: Does not this policy of secrecy, imposed both on conservator and receiver, tend to protect the bank's officers and directors from the responsibility that is theirs?

ANSWER: Failure to publish information concerning the affairs of the bank does *not* protect guilty officers and directors from liability. Each receiver of a national bank is instructed to make an examination of the affairs of the bank as soon as practicable, to determine whether or not the officers and directors have been guilty of negligence or improper conduct in the operation of the bank. If such liability is found to exist suit is filed to enforce payment in the event the guilty officers fail or refuse to settle.<sup>12</sup>

*Trust department.* The management of a closed bank's trust department involves special problems. In this case, the bank is not liable to a creditor for a definite sum of money, but is merely administering specific assets for the benefit of certain individuals. The problem involved is the turning over of these assets to the beneficiaries or to new trustees.

In some cases the trust can be terminated by returning the assets to their owners. When the latter do not desire to assume the responsibilities of administration, they may consent to the appointment of successor trustees. All assets which are being held for the purpose of distribution among a number of beneficiaries, such as decedents' estates, are disposed of, if possible, during the life of the receivership. Receivers of a national bank are not allowed to charge fees for such services, and so the costs must be borne by the commercial department's creditors, an obviously unfair situation.

<sup>12</sup> Comptroller of the Currency, *Press Release*, Sept. 11, 1933.

In some cases funds are received by trust departments to be invested in some specific manner. This establishes a relationship similar to that between a bank and a depositor, except that the depositor's equity in the investment is merely a pro rata share, not a fixed sum. It has been found that such trusts can best be liquidated by turning them over to a separate trustee. This method has been held legal by the courts in the course of the liquidation of the Trust Department of the Bank of Pittsburgh.<sup>13</sup>

*Safe deposit boxes.* Receivers may not continue to rent safe deposit boxes to customers. These boxes should not be broken open or entered by receivers except in the presence of the owners. If the owner is indebted or liable in any way to the bank, directly or indirectly, it may be found desirable for the receiver to attach the contents.

### III. CONFLICT IN JURISDICTION

In 1930 a United States district court replaced a receiver appointed by the Comptroller of the Currency for the Port Newark National Bank of Newark, New Jersey, by one of its own appointees. The Circuit Court of Appeals ordered the reinstatement of the Comptroller's receiver.<sup>14</sup>

In 1932 a "double receivership" resulted in connection with the closing of the Peoples State Bank of South Carolina. Receivers appointed by the United States District Court liquidated the bank's assets, while a receiver appointed by the state court enforced the double liability on stockholders.<sup>15</sup>

<sup>13</sup> A. P. Reed, "Liquidation of Trust Department Described," *Trust Companies*, January 1923, pp. 39-41.

<sup>14</sup> *Annual Report of the Comptroller of the Currency*, 1930, pp. 27-28.

<sup>15</sup> Letter from the receivers.

### CHAPTER III

## THE SUPERVISION OF CLOSED STATE BANKS AND TRUST COMPANIES

Until comparatively recent years insolvencies of state banking institutions were handled just as were any other business failures. Application was made to the local court for the appointment of a receiver, and upon the proper showing before the court, the appointment was made by the presiding judge. The receiver was regarded as an officer of the court, was responsible to the court for his conduct of the receivership, had to secure court approval—usually in advance—for all important transactions entered into by him, and was expected to file with the court periodic reports and a final report. In 1895 the Comptroller of the Currency sent a questionnaire to banking officials of the states, inquiring as to the state banking law and practice. "In nearly all of the states insolvent banks are managed in the same manner as other insolvent concerns," he reported. "In one state the officers of the bank bring its affairs to a close under the supervision of the bank commissioners. Two states provide that claims against insolvent savings banks may be scaled down or a receiver appointed. One state prohibits preferences, while two states prefer depositors under certain conditions."<sup>1</sup>

California was at this time the only state which provided for supervision of the liquidation of insolvent banks by the state bank supervisory authority, and even

<sup>1</sup> *Annual Report of the Comptroller of the Currency, 1895, Vol. I, p. 40.*

in that state the application for a receivership had to be made by the Attorney-General to a court. Once the receivership was established, however, liquidation was conducted by officers of the bank, under the direction of the bank commissioners.<sup>2</sup>

In some states the bank supervisor, acting through the Attorney-General, was required to initiate the application for a receivership; in others any creditor could bring an action. In Indiana and Iowa the state auditor took charge of insolvent banks, and in Iowa the auditor "directed" the Attorney-General to secure the appointment of a receiver. In West Virginia the bank examiner reported insolvencies to the Board of Public Works. The Board revoked the bank's charter, after which the same procedure as in insolvencies of other corporations was followed. In Pennsylvania a "temporary" receiver was appointed immediately for the protection of depositors. Where this system was not in vogue, there was danger, of course, that withdrawals by informed depositors might continue between the time of application for appointment of a receiver and action by the court.

In Wyoming it was made the duty of the officers of the bank to notify the Bank Commissioner of its insolvency. The Commissioner then took charge of the bank until a receiver was appointed in regular routine. In Colorado the usual method of closing insolvent banks was reported as "by deed of general assignment, all creditors standing upon an equal footing, except employees to the extent of \$50 each, and in the case of the insolvency of savings banks the savings depositors are entitled to preference in the payment over other creditors."<sup>3</sup>

<sup>2</sup> Compare the same, p. 115.

<sup>3</sup> The same, p. 118.

In Maine it was provided that "when the bank examiner is of the opinion that a savings bank is insolvent, or that further proceedings by the bank will be hazardous to the public, he may apply to the Supreme Court of the state for an injunction restraining it from doing further business, and after hearing in court a receiver may be appointed to close up its affairs, or the court may, on application of the trustees of the bank, reduce the deposit account of each depositor to an amount necessary to make the bank solvent."<sup>4</sup>

In New Hampshire, also, deposits could be scaled down, the decision seemingly resting with the bank commissioners. And the "trust-account" device which was so widely used after the bank holiday of 1933 was used in New Hampshire as early as 1895. The following is an excerpt from the reply of the New Hampshire Bank Commissioner to the Comptroller's questionnaire:

. . . Another method of dealing with insolvent savings banks is to reduce the deposit accounts of each depositor such a percentage that the assets will pay out the reduced amount. The bank continues to transact business, and when it has realized all that can be realized from the depreciated assets, the surplus thus accumulated is distributed among the depositors. If the bank takes new deposits they must be kept separate and invested separately, so that the old institution could be wound up and the new institution go on. To illustrate: The bank commissioners, from an examination, are of the opinion that a bank can with safety only pay its depositors 75 per cent of their deposit accounts. The deposits are accordingly reduced 25 per cent. Any depositor can then withdraw 75 per cent of his deposit at the date of reduction. If the bank is to be finally closed up because of loss of confidence in its management, each depositor receives the 75 per cent in the liquidation and as much more as the assets realize. . . .<sup>5</sup>

<sup>4</sup> The same, p. 131.

<sup>5</sup> The same, p. 145.

Defects in the prevailing system were pointed out in the returns made to the Comptroller. The North Dakota State Examiner wrote that "the law is weak on the point of closing up the business of insolvent banks, in that the Examiner has no power to take control of the affairs of the association, but must apply to the courts for the appointment of a receiver."<sup>6</sup> And the following comment came from the Secretary of State of Missouri:

In case a state bank examiner finds a bank to be in a failing or unlawful condition, or perpetrating fraud, he makes a full report of the condition of the bank to the Secretary of State, who then, through the Attorney-General, brings an injunction proceeding in the Circuit Court of the county in which the bank is situated, requesting the closing of the bank and the appointment of a receiver. This system, while it divides responsibility and is protective against an abuse of power, is wanting in flexibility and occasionally in adaptation to the situation. As a rule it works without friction, but in some cases delays occur which are detrimental to the interests of the innocent depositor who is uninformed as to the failing condition of the bank. When a bank is once closed it is under the control of the court through the receiver appointed thereby. Up to this time no provision has been made to keep the Department of State informed as to the progress of settlement of the affairs of the bank. For statistical and other useful purposes this should be done, and probably will be arranged by common consent, even before the law can be amended.<sup>7</sup>

By 1909 the laws of the states had been changed to the extent that in eleven states the official state supervising agency was empowered to liquidate the bank, or had some control of liquidation, and in three the bank supervisor was authorized to appoint the receiver.<sup>8</sup> In most cases this action could be taken either in the case of

<sup>6</sup> The same, p. 152.

<sup>7</sup> For details see Appendix B.

<sup>8</sup> The same, p. 138.

insolvency or in case the bank had violated the banking law.

In 16 cases the supervisors had either complete or partial control over liquidation, and in a number of others the supervisor could take temporary possession in case he considered further operations of the bank hazardous. This enabled him to conserve the assets until actual liquidation was started and it was necessary to protect the depositor during the delay incident to receivership proceedings. In practically all of the 30 states where the banking supervisor merely applied for a receiver, liquidation was decentralized, subject only to the supervision of local courts, though in some cases the receiver "reported" to the supervisor. In general this method led to unnecessarily high costs of liquidation and unnecessarily long periods of receivership. In 1907 the New York Special Commission on Banks commented upon this type of receivership as follows:

While under our system the compensation of receivers is fixed and appears fairly reasonable, incompetent persons are frequently appointed, which in itself increases the expense; and the fees are often increased by the courts upon special pleas. The number of attorneys to be employed and their compensation are not regulated properly; many matters which might readily be made the subject of adjustment by applying the same principles which obtain as between individuals become subjects of litigation; expensive "references" are necessary, not only for the settlement of contested questions, but upon the occasion of the periodical accounting of receivers. These circumstances cause inordinate legal expenses, largely added to by the notoriously cost-breeding delays in so many of our courts.\*

It was generally felt at this time that the entire bank receivership situation was unsatisfactory and the senti-

\* *Report of the New York Special Commission on Banks, 1907*, cited in George E. Barnett, "State Banks and Trust Companies," *Report of the National Monetary Commission*, Vol. VII, p. 168.



ment for making bank supervisors responsible for receiverships was growing. The National Association of Supervisors of State Banks in their 1908 convention recommended this.<sup>10</sup>

By 1933 nearly all of the states had adopted the federal rule and had given the state bank supervisor control over closed bank liquidations. In six states the supervisor merely applies for the appointment of a receiver, in four states and the District of Columbia he appoints the receiver, and in the other 38 states he either actually has control of liquidation or carries it out under the supervision of a receiver appointed by the court.

POWERS OF STATE BANK SUPERVISOR OVER BANK  
LIQUIDATIONS, 1933<sup>4</sup>

Alabama	.....	Power to liquidate or to apply for appointment of receiver.
Arizona	}	..... Has full power to liquidate.
Arkansas		
California		
Colorado		
Connecticut	.....	Applies to court for appointment of receiver. (See p. 38 for experiment initiated in 1934)
Delaware	.....	Court appoints commissioner or deputy as receiver.
District of Columbia	.....	Comptroller of the Currency appoints receiver under specific statutes relating to the District.
Florida	.....	Comptroller appoints one general receiver.
Georgia	}	..... Has full power to liquidate.
Idaho		
Illinois		
Indiana	.....	Applies to court for appointment of receiver.
Iowa	.....	Liquidates after application to court, which appoints him receiver.
Kansas	.....	Appoints receiver.
Kentucky	.....	Liquidates or applies to court for appointment of receiver.
Louisiana	.....	Has full power to liquidate.
Maine	.....	Applies to court for appointment of receiver and may be appointed himself.

<sup>10</sup> *Proceedings of the Seventh Annual Convention of the National Association of Supervisors of State Banks*, pp. 22, 40, cited by George E. Barnett on p. 170 of the reference given in the preceding footnote.

Maryland	Liquidates with the consent of the Governor and the Attorney-General.
Massachusetts	Has full power to liquidate.
Michigan	Applies to court for appointment of receiver, who may be the Commissioner himself, his deputy, an examiner, or any person recommended by him.
Minnesota	Liquidates or applies to court for appointment of receiver.
Mississippi	Liquidates, subject to jurisdiction of the court.
Missouri	Liquidates or applies to court for appointment of receiver.
Montana	Has full power to liquidate.
Nebraska	Applies to court for appointment of receiver, and is himself appointed.
Nevada	Has full power to liquidate.
New Hampshire	Applies to court for appointment of receiver and is himself appointed.
New Jersey	Has full power to liquidate.
New Mexico	Liquidates or applies to court for appointment of receiver.
New York	} Has full power to liquidate.
North Carolina	
North Dakota	Supreme Court appoints a general receiver for all suspended banks.
Ohio	} Has full power to liquidate.
Oklahoma	
Oregon	
Pennsylvania	
Rhode Island	Applies for appointment of receiver and court appoints either him or his deputy.
South Carolina	Receiver is elected by depositors on application of supervisor.
South Dakota	Has full power to liquidate.
Tennessee	Applies to court for receiver and is himself appointed.
Texas	Takes possession and reports to the Attorney-General, who applies for a receiver.
Utah	Has full power to liquidate.
Vermont	Applies to court for appointment of receiver and is usually himself appointed.
Virginia	Applies to court for appointment of receiver.
Washington	Has full power to liquidate.
West Virginia	Appoints the receiver, who is an employee of the Banking Department.
Wisconsin	} Has full power to liquidate.
Wyoming	

\* *Report of the Indiana Study Commission for Financial Institutions*, p. 99; *The Dual Banking System*, Federal Reserve Committee on Branch, Group, and Chain Banking, Appendix; and information from state supervisors.

In the state of New York and in other states where the supervisor is himself made receiver of suspended state banks, he delegates the actual liquidation to subordinates. In North Dakota one general receiver for all closed banks is appointed by the Supreme Court. The state bank supervisor, under this system, has nothing to do with a bank after he closes it. Thus, centralization is secured, but liquidation is completely dissociated from the supervision of banks.

In most of the states in which the supervisor merely applies for the appointment of a receiver he is empowered to take possession of an insolvent institution in order to conserve its assets for depositors until a receiver is appointed.<sup>11</sup>

Among the remaining 38 states there are several cases in which the supervisor has the option of liquidating the bank or applying for a receiver. In a number of states, although the supervisor applies for a receiver, he himself, or some one designated by him, acts in that capacity, and consequently he has practically as much control over the liquidation as if he liquidated without court appointment. In practically all the states of this group a supervisor is subject to court order in carrying out the liquidation of assets and the distribution of dividends, whether or not he has been appointed receiver by the court.<sup>12</sup> In states where the supervisor himself liquidates, a liquidation division has usually been set up in his office.

Even in states in which the supervisor appears to have full authority to liquidate insolvent institutions, other

<sup>11</sup> For an example of the laws in this group see N. D. Acts, 1931, p. 56.

<sup>12</sup> Examples of laws of this type are: Gen. Laws of Calif., 1931, Vol. I, Act 652, Sec. 136; Iowa Code, 1931, Sec. 9239-42; Miss. Code Ann., 1930, Sec. 3817; Cahill's Cons. Laws of New York, 1930, Chap. III, Secs. 57 and 69. A sample law for the third group of states is found in Cahill's Ill. Rev. Stat., 1931, Chap. XVI(a), Sec. 11.

agencies at times may be employed. In February 1934 the Supreme Court of Nevada upheld the action of a district judge in appointing receivers for seven members of the Wingfield chain, which suspended in November 1932, occasioning the first of the more recent state-wide holidays. On November 29, 1933 District Judge Gould had ruled that the seven banks were to be placed in receivership, the receivers to be named by himself.<sup>13</sup>

The Upshur-Conklin bill, recently passed by the Mississippi legislature, provides that a judge in chancery may appoint a receiver if the examiner in charge of liquidation is not satisfactory.<sup>14</sup>

A combined supervision by both courts and the State Banking Department has been set up in Connecticut, where receiverships are administered under the Superior Court. The Banking Department will make periodic examinations of all closed as well as of all open banks, and will report to the court. The judges of the court feel that depositors in closed institutions will have greater assurance that their best interests are being carefully watched, and hope that the experienced personnel of the banking department may offer valuable suggestions. The Banking Department is to be compensated on the basis of actual cost. The whole plan is regarded as experimental, and will be abandoned should its effects be insufficient to justify the work and expense.<sup>15</sup>

Comparison of the table on page 35 with that on page 251 of Appendix B reveals a definite trend toward the centralization of bank liquidation. In 1909 the supervisors of 32 states had merely the power to apply for the appointment of a receiver, as against six in 1933. Moreover, in one of these six, North Dakota, bank liquidation is now centralized under a single receiver.

<sup>13</sup> *American Banker*, Feb. 17, 1934.

<sup>14</sup> The same, Mar. 6, 1934.

<sup>15</sup> The same, Apr. 11, 1934.

The supervisors themselves, and most students of the problem, continue to recommend state bank liquidation directly under the control of the supervisor. The chief advantages of such centralization are (1) that an experienced staff is built up, (2) that the liquidators are less likely to be subject to local pressure, and (3) that the costs of liquidation are greatly reduced.<sup>16</sup>

There has been experience in some of the states with liquidation of suspended banks by guaranty fund commissions. The Guaranty Fund Commission of Nebraska, for example, in addition to administering the assessments and their distribution to depositors, liquidated suspended banks and operated others which were in weakened condition. The Commission's liquidations were carried on in a most efficient manner, at a cost of less than a third of what it had been under receiverships, and at a return of over a third more to depositors. Its task, however, became extremely complicated when it attempted to operate and restore to a profitable basis a number of miscellaneous assets taken over as a result of bank suspensions. The management of such enterprises as a blacksmith shop, a dance hall, an opera house, a garage, a farm, a barber shop, a dental office, pool rooms, and cafés, must have convinced the Commission that the lot of general receiver is far from happy.<sup>17</sup>

Under the guaranty fund in the state of Washington one institution, the Scandinavian-American Bank of Seattle, which suspended June 30, 1921, was liquidated. Its approved claims amounted to \$8,455,360. The available cash in the fund, including a maximum annual assessment levied after this suspension, was only \$870,514. Membership in the fund being voluntary, all

<sup>16</sup> Compare p. 84.

<sup>17</sup> *Financial Age*, Apr. 7, 1928, p. 347.

banks withdrew before another assessment could be levied. Collections from the assets of the bank eventually amounted to \$5,062,553, which, with the guaranty fund proceeds, made possible a recovery by depositors of 85 per cent. The liquidation of the bank was handled by a special deputy superintendent of the Banking Department, who turned all proceeds over to the secretary-treasurer of the fund.

The guaranty fund officials often chose to administer an insolvent bank for a time as a going concern rather than to liquidate it when its closing would have caused a severe drain on the fund. Other factors were the possibility of continuing needed service in the community and preventing the inconveniences incident to suspension.

There are some disadvantages in assigning the function of liquidation to the supervisors. During the last few years, the staffs of the supervisors have been so heavily taxed with liquidation cases that the active banks have been neglected. Examinations have not been made when due. Furthermore, the difficulties involved in receiverships not only occupy much of the supervisor's time, but may actually bring discredit upon him and his office.

For example, the Superintendent of Banks in South Dakota brought criticism upon himself by depositing funds of closed banks in weak active banks to bolster them. While these deposits were preferred claims in case the weak banks closed, this procedure slowed up the distribution of dividends from the first closed banks. Over 1.5 million dollars of closed bank funds was tied up in this way. Nearly \$350,000 was in one institution. If in turn a weak depositary closed and its funds were then placed in still other weak banks which later closed,

the delay was further accentuated. Moreover, although such deposits were preferred claims, they were not separately shown on bank statements, and unsecured depositors were misled as to the true condition of their bank.<sup>18</sup> Some of the depositaries for closed bank money were in such poor condition it appeared that upon liquidation they would not even be able to meet all preferred claims. Because of this, an estimated loss of \$1,350,000 in closed bank money was indicated.<sup>19</sup>

Before the creation of the Federal Deposit Insurance Corporation, there was considerable discussion of the idea of a special liquidation corporation for state banks. The Governor of Massachusetts in his annual message of 1932 proposed the creation of a corporation with an authorized capital of 20 million dollars to which any state banking institution might subscribe with the permission of the Commissioner of Banks. The fund so created was to be used to take over mortgages or other securities of a closed institution or of going banks, and thereby make possible the release of funds for dividends to depositors of closed banks, or the reopening of such institutions, or the assistance of going banks.<sup>20</sup> The Governor repeated the recommendation in a special message on March 14, 1932.

The Massachusetts Commission studied this subject at some length. While one of the members of the Commission submitted a minority report favoring such action, the majority decision was against it. The Commission said:

Most of the remaining assets of the closed banks are frozen, and their liquidation will undoubtedly require a long period of

<sup>18</sup> *Report of the Attorney-General to the Legislature of the Investigation of the Department of Banking and Finance*, 1930, pp. 19, 20, 45-51.

<sup>19</sup> The same, *Second Supplemental Report*, 1931, p. 11.

<sup>20</sup> Commonwealth of Mass., December 1932, House rep. 1184, p. 38.

time (unless there is a substantial improvement in business conditions and a consequent rise in values). Any method, therefore, by which a central corporation could take over the assets either by purchase or on easy loan terms, and so advance cash to closed banks for the payment of dividends, is attractive in purpose and highly to be desired. But there are difficulties and obstacles to be considered. In the first place, where is the money to come from which the central corporation is to advance upon the assets of closed banks? It can only be obtained by the sale of bonds or other obligations of the central corporation. But who is to buy them? They will be secured by assets of an essentially unattractive nature,—frozen, long-term in character, and more or less speculative in value. It would seem clear that at a time when new money cannot be obtained for the expansion of sound industries, or even for refunding their obligations, the general investing public cannot be counted on to provide any of the requisite funds. And the same argument is equally true if it be urged that the going banks might voluntarily subscribe the necessary capital. Their first duty is to maintain themselves in a sound and liquid condition, ready to meet the demands of their depositors and legitimate business requirements, and they cannot be expected to invest their depositors' money voluntarily in so doubtful an asset.

Again, suppose it be said that the money might be obtained by assessment upon the other trust companies of the commonwealth in the same manner as the assessment required from all savings banks in the act which created the Mutual Savings Central Fund, Inc., for the benefit of savings banks needing assistance; and suppose, further, that the serious question of the constitutionality of such assessments in the present case could be satisfactorily answered, nevertheless there would still remain a grave practical question whether going banks with their thousands of depositors should be required by law to use the funds of their depositors in this manner, even though for the meritorious purpose of assisting the individuals whose funds are tied up in the closed banks. An important distinction exists between such a proposal and the legislation which created the central funds for co-operative banks and for savings banks. In their case an assessment is made upon all *going* banks for the assistance of *each other*, and to throw the combined strength of all into the



breach in case of need by any one. The purpose of such measures is to maintain the soundness of the existing structure, and to prevent the calamity of any further closings. It is quite a different thing to take away any part of the strength of a going bank and to prejudice in any degree the interests of its depositors solely for the purpose of paying an earlier dividend to depositors in banks already closed. A good argument can be made for pooling common resources to meet an admittedly common need. The case is not so clear for using other people's money to relieve the burden of a few.

Also it is important to note the distinction which exists between the proposal of a central liquidating corporation and the plans, described in this report, whereby an individual open bank may purchase all or part of the assets of some one particular closed bank. In the latter case, the open bank acts voluntarily, and is free to judge for itself whether the assets are worth buying and the risk worth taking, and to employ to that end all the tests of value and profit customarily applied in business transactions. In the case of an enforced contribution to the capital of a central corporation, on the other hand, not only would it be true that no individual bank could remain in a position to govern the subsequent use, in any particular instance, of the money which it subscribes; but also, since the central corporation would be called into existence by legislation having a broad general intent, both express and implied, to help all closed banks in the state, its directors would necessarily be subject at all times to strong pressure—often, perhaps of an intensely political nature—to lend the aid of the corporation with or without full regard to the value of the collateral security offered and obtained in any particular instance.

It is true that legislation now pending in Congress (Senate, No. 4412) provides for the creation of a federal liquidating corporation to undertake the liquidation of any Federal Reserve member bank which hereafter may be closed; and it is also true that well-qualified judges anticipate that this provision very likely will gain approval either in the present session of the Seventy-second Congress or in the first session of the Seventy-third Congress. It must be observed, however, that a large part of the capital funds required for such a federal corporation can be raised—and it is proposed that they shall be raised—in a manner

not applicable to any similar enterprise which might be launched by the Commonwealth of Massachusetts for the use of state banks. The pending national legislation, in demanding that each of the twelve Federal Reserve Banks should contribute to the capital of a federal liquidating corporation, at the same time would give to the Reserve Banks liberal financial compensation by repealing certain taxes formerly levied upon them, which many authorities contend never should have been taken from them by the federal government in the past. No similar compensation appears readily within the gift of the commonwealth in return for subscriptions which state banks might be compelled to make to a central liquidating corporation.

Moreover, the pending national legislation proposes that a large contribution should be made to the federal liquidating corporation directly by the Treasury of the United States. Legal though such a use of public funds may be under the Federal Constitution, the employment of public funds and credit for a central liquidating corporation would meet in this state a practically insuperable constitutional objection.

For all these reasons the Commission has reluctantly concluded that it is not worth while to pursue this matter further at the present time.<sup>21</sup>

<sup>21</sup> The same, pp. 38-41. See pp. 56-58 of this study for discussion of unification and centralization of closed bank administration under the Banking Act of 1933.

## CHAPTER IV

### CONTROL AFTER THE HOLIDAY

On March 9 Congress met at the call of the President and was requested by him to enact legislation authorizing government control for the protection of depositors, the opening of sound banks, the reorganization of insolvent banks, and the issue of additional currency. The Emergency Banking Act was passed the same day, giving the President blanket authority over Federal Reserve member banks, and authorizing appointment of conservators for national banks, the issuance of preferred stock, the more liberal issue of Federal Reserve bank notes, and broader lending powers for the Reserve Banks.<sup>1</sup>

While all the banks were closed there was considerable agitation for a basic reform of the banking system, for instance by the abolition of state banks. The influence of these banks in Congress and general fear of domination of the system by the large banks prevented such measures. Moreover, the prime necessity was the restoration of normal banking facilities; there was no time to draw up a plan which would completely revamp the banking system. Reopening the soundest banks achieved the desired end with the least possible delay.

#### I. LICENSING

On March 11 the President stated to the press that a program had been arranged for reopening the banks. Regulations of the Secretary of the Treasury authorized Federal Reserve and commercial banks in a sound con-

<sup>1</sup> 48 Stat. L. 1.

dition to reopen for all normal business except the payment of gold, the payment of currency for hoarding, and the sale of foreign exchange except that needed for normal business requirements.<sup>2</sup> Unlicensed banks were permitted to pay out not more than 5 per cent of their deposits, to perform fiduciary duties, and to pay out secured deposits.<sup>3</sup>

Bank licensing proceeded rapidly. Member banks were handled by their respective Federal Reserve Banks, which recommended applicants for licenses to the Secretary of the Treasury. Non-members were licensed on approximately the same basis by the state supervisors. The banks in strongest condition were licensed immediately at the conclusion of the bank holiday. Doubtful cases were given further consideration, and those admittedly insolvent were forced to go through reorganization or liquidation. Most of the insolvent banks were permitted to operate on a restricted basis for some time before being reorganized or placed in receivership.

By April 12, 1933 the straight licensing program had been completed. Only a few banks which reopened before that date were reorganized, while practically all which resumed business after that date were first reorganized. By that time the following numbers of banks of different classes were open:<sup>4</sup>

Class	Number	Deposits
National .....	4,789	\$16,494,549,000
State member .....	636	9,491,634,000
Non-members (other than mutual savings banks) .....	7,392	5,020,061,000
Total .....	12,817	\$31,006,244,000

<sup>2</sup> Regulations 20 and 21, Mar. 11, 1933.

<sup>3</sup> Regulation 27, Mar. 18, 1933, and Regulations 31 and 32, Mar. 30, 1933.

<sup>4</sup> Federal Reserve Board, Division of Bank Operations.

Tables showing licensed banks by states on several dates in 1933 are given in Appendix C.<sup>5</sup> Of the banks closed by the holiday, 4,215, with deposits of nearly 4 billion dollars, failed to reopen by April 12. Of these 1,108 were national banks, 148 were state member banks, and 2,959 non-member banks. These figures do not include banks which had been placed in liquidation or receivership.<sup>6</sup>

On December 30, 1933 there were 452 national banks still unlicensed, 60 state member banks, and 1,393 non-members, or a total of 1,905.<sup>7</sup> The volume of deposits in non-licensed banks had fallen from \$3,981,232,000 to \$1,202,420,000. The decrease is partly accounted for by approximately 1,105 banks (496 member and 509 non-member) placed in liquidation, with deposits of \$1,872,013,000. The remaining decrease of 1,205 in non-licensed banks is due chiefly to the removal of restrictions, though in part to consolidations. By June 27, 1934 the number of unlicensed member banks was only 114, with frozen deposits of \$114,381,000. The number of non-member banks without a license was 509; their deposits on December 31, 1933 or the nearest available prior call date aggregated \$234,234,000.<sup>8</sup>

Because of the tremendous pressure upon the authorities to get the banks open, and the relatively short time in which it was done, some errors of judgment were to be expected. But apparently only a few banks were licensed which were in an unsound condition. Licensed banks suspending from the end of the bank holiday to December 31, 1933 were as follows:<sup>9</sup>

<sup>5</sup> March 15, April 12, and December 27. See pp. 255-57.

<sup>6</sup> *Federal Reserve Bulletin*, April 1934, p. 251.

<sup>7</sup> The same.

<sup>8</sup> The same, July 1934, pp. 496 and 497.

<sup>9</sup> The same, June 1934, p. 416.

Class	Number	Deposits
National .....	9	\$ 17,490,000
State member .....	6	3,527,000
Non-member .....	206	131,521,000
Total .....	221	\$152,538,000

The state supervisors appear to have been much more lax than the federal officials in licensing. That of the more than 6,500 member banks licensed during 1933 only 15 suspended in that year indicates an efficient federal procedure. It must be remembered, however, that during this period the RFC was putting fresh capital into banks by the purchase of preferred stock and capital notes; this may in part account for the low rate of failures.<sup>10</sup>

The bank holiday and subsequent procedure have been passed upon in several court decisions. *Pestcoe v. Sixth National Bank of Philadelphia* upheld the right of Congress to authorize the Comptroller to place national banks on a restricted basis.<sup>11</sup> The District of Columbia Supreme Court upheld the legality of the national holiday in *Daly Bros., Inc. v. Thomas P. Hickman et al.*<sup>12</sup> In other cases action taken by state supervisors during the bank holiday has been upheld.

## II. CONSERVATORSHIPS

National banks which were not in condition to be licensed within the first period of reopenings in the second half of March were placed under conservators, provision for whom was included in the Emergency Banking Act of 1933. Conservators bear a close resemblance in many respects to receivers, but are appointed on the theory that the bank may be reorganized rather than liquidated.

<sup>10</sup> Compare pp. 195 and 197.

<sup>11</sup> Mar. 3, 1934; 171 A. 302.

<sup>12</sup> Equity No. 55568, 1933.

If it is later found necessary to liquidate, the conservator may be succeeded by a receiver, though this practice is not invariable.

Title II of the Emergency Banking Act of March 9, 1933 is known as the Bank Conservation Act. This act authorizes the Comptroller of the Currency, "whenever he shall deem it necessary in order to conserve the assets of any bank for the benefit of the depositors and other creditors thereof," to appoint a conservator. It was stipulated that such conservators have "all the rights, powers and privileges now possessed by or hereafter given receivers of insolvent national banks" and are subject to the same obligations and penalties, including criminal penalties. During the continuance of a conservatorship, the rights of all parties, it is stipulated, are to be the same as if a receiver had been appointed, subject, of course, to variations growing out of other provisions of the Bank Conservation Act.<sup>13</sup>

Conservators for unlicensed national banks were appointed rapidly. The appointment of such officials for the First National Bank and the Guardian National Bank of Commerce, both of Detroit, was the subject of a special Treasury press release on March 13.

By December 31, 1933 the Comptroller had appointed 1,105 conservators. Of this number, ten were appointed for non-national banks in the District of Columbia, five for banks for which licenses were granted prior to March 16 but later revoked, one for a bank for which a license was granted subsequent to March 16 but later revoked, and one for a bank which suspended prior to the bank holiday. The remaining 1,088 were for banks

<sup>13</sup> 48 Stat. L. 3. An objection that the suspension of depositors' rights under conservatorships deprived of property without due process was overruled by the U. S. Supreme Court. *Gibbs v. Zimmerman*, cited in *U. S. Law Week*, Dec. 5, 1933, p. 12.

unlicensed on March 16. Deposits in the conservatorship banks were approximately 2 billion dollars.<sup>14</sup>

By executive order of March 18, 1933 the President authorized the appointment by the proper state authority of "such appropriate official as may be authorized" under the laws of each state, to conserve the assets of state bank members of the Federal Reserve system. So far as non-member banks were concerned, the state bank commissioners were left free to do as they pleased. Where there was no provision for the equivalent of a conservatorship, it was necessary for state banks, member or non-member, to be either licensed or placed in the hands of receivers. Some states passed statutes patterned after the Federal Bank Conservation Act, and others relied on their various "stabilization" or "dictator" laws.<sup>15</sup>

The Bank Conservation Act provided that, after examination, the Comptroller might, if satisfied that it might safely be done and that it would be in the public interest, terminate the conservatorship and permit the bank to resume the transaction of its business subject to such terms, conditions, restrictions, and limitations as he prescribed. A plan to facilitate reorganization was also included. Presumably if it were found inadvisable to terminate the conservatorship without a reorganization it was the intention that a receiver should be appointed, and at the time of writing conservators are still being replaced by receivers as soon as the latter can be selected after it has been definitely decided that the banks in question cannot be reorganized.

During the existence of a conservatorship, the Comptroller was empowered to require the conservator to "set

<sup>14</sup> *Annual Report of the Comptroller of the Currency, 1933, p. 2.*

<sup>15</sup> For example of state laws authorizing conservatorship, see Vt. Acts, 1933, Sec. 1, as amended.



aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose." The Comptroller was also authorized to permit conservators to accept so-called "trust deposits," to be kept on hand in cash, invested in direct obligations of the United States, or deposited with a Federal Reserve Bank. These deposits were payable on demand, bore no interest, and were designed to provide depository services which otherwise would have been unavailable during the bank holiday and the period subsequent thereto.

Upon the appointment of receivers, in case it was decided that the conservatorship banks should be liquidated, these deposits were repaid. They were repaid or credited to general deposit accounts, losing their preferred status, if such banks were reorganized. Banks remaining under conservators have been closing out these accounts as the need for such facilities has disappeared. On October 10, 1933 the 736 unlicensed national banks had \$47,705,800 of deposits of this type, as compared with \$633,530,000 of frozen deposits.<sup>16</sup> By December 31 unrestricted trust deposits amounted to approximately \$31,000,000 in 448 unlicensed national banks.<sup>17</sup> At the end of March 1934 the remaining 218 unlicensed national banks had but \$18,286,000 in such deposits.<sup>18</sup> State laws authorizing banks to be placed on a restricted basis usually made provision for their acceptance of similar trust deposits.<sup>19</sup>

<sup>16</sup> Comptroller O'Connor, speech before the Dallas Clearing House Association, Oct. 18, 1933.

<sup>17</sup> Comptroller of the Currency, *Press Release*, Jan. 7, 1934.

<sup>18</sup> *American Banker*, Apr. 9, 1934.

<sup>19</sup> See, for example, Calif. Laws, 1933, Chap. 32, approved Mar. 14; N. C. Banking Laws, Sec. 221 (e-c), and Laws, 1933, Chap. 120, Sec. 3(c); Ohio Gen. Code, Sec. 710-107(a).

The Bank Conservation Act made the reorganization of national banks easier than it had previously been. Its provisions in regard to this feature are discussed in a later chapter.<sup>20</sup> It will suffice here to state that conservators found the bulk of their duties concerned with the formulation of plans of reorganization.

The operation of trust departments in banks under conservatorships presented a special problem. During the bank holiday, before conservators had been appointed, the Secretary of the Treasury ruled that banks could continue to transact the business of their trust departments in the normal manner provided that in doing so they did not pay out currency or withdraw funds from the commercial department.<sup>21</sup> When all banks able to reopen immediately after the holiday had been licensed, member banks with trust departments which had not been licensed were permitted to pay out the principal or interest of trust funds, provided funds were not withdrawn from the commercial department unless otherwise authorized.<sup>22</sup> These regulations were justified because the trust departments, which did not accept deposits, were clearly not in the same need of restricting operations as the commercial banks were.

Upon their appointment the conservators of 345 national banks found themselves placed in control of trust departments to be operated as going concerns, while their commercial banking departments were to be reorganized or liquidated. These trust departments had assets of 317 million dollars, exclusive of real estate.

A separate unit of the Conservation Division of the

<sup>20</sup> See Chap. X, pp. 126-34.

<sup>21</sup> Secretary of the Treasury, Regulation No. 13, Mar. 7, 1933, interpreting Presidential Proclamation of Mar. 6, 1933.

<sup>22</sup> The same, Regulation No. 31, Mar. 30, 1933.

Comptroller's office was set up to administer trust departments. Income on trustee assets was collected as usual, but was not paid out except in strict accordance with the terms of the trusts or court decrees. Reports were submitted to the Comptroller's office on the trust as well as the commercial departments. All claims were subjected to scrutiny to make sure of their trust nature, and in some cases special examinations were made to insure that no unsecured claims on the bank were being paid out through trust departments. Conservators were not authorized to accept new trust appointments, and final settlements of expiring trusts were postponed until the fate of the institution concerned had been determined.<sup>23</sup>

In March 1933 the Comptroller of the Currency was not able to call upon trained bank receivers to assume positions as conservators of unlicensed banks. His regular staff had long since been exhausted, and he was using as receivers for closed institutions many newcomers to the department.

Quick action was essential. Many capable bank officials were left without active employment. It was natural that many banks should be placed under the conservatorship of one of their own officers. There were some objections to this, the point being made that in any plan for reorganization, the old management, including the stockholders, would thus have an advantage over the depositors. The *New York World-Telegram* questioned the Comptroller of the Currency about this practice and received a public reply.

**QUESTION:** How does the Treasury Department justify appointing the bank's former president as conservator, especially when the depositors have no organization of their own and are

<sup>23</sup> Comptroller O'Connor, "Trust Department Operations and the Bank Holiday," *Trust Companies*, September 1933, pp. 259-63.

completely unrepresented? The interests of depositors, stockholders and directors and officers are conflicting. The effect of these appointments is to leave the old management, and the stockholders, completely in the saddle.

ANSWER: At the termination of the bank holiday it was found necessary to appoint conservators for approximately 1,200 national banks not then in a position to be licensed to reopen. It was important that such conservators be appointed immediately to take charge of the assets of such banks, as representatives of the government, pending a disposition of their affairs according to law. Time did not permit the setting up of an organization to obtain an eligible list (which would have required previous examination and investigation of the applicants), from which to select 1,200 persons qualified by both business and banking experience to perform the duties necessary to preserve the existing status of the banks and dispose of the many banking questions and banking operations (most of them of an emergency nature at the outset) resulting from the closing of the banks. Consequently, the natural and logical course was to draw upon the qualified material already at hand and to select therefrom as conservators such officers of the closed banks as appeared to be reliable, and competent to handle the situation, pending a more permanent solution of the problems presented in each case.

In making these appointments, the general policy was adopted of obtaining recommendations from the field examiners (approved by the chief national bank examiners wherever practicable) who were qualified, from previous examinations of the banks and acquaintance with the officers thereof, to suggest suitable appointees.

A further impelling factor conducive to the appointment of former officers of the banks was the wholesome objective of preserving the business goodwill of the banks and of keeping the organization intact so as to avoid the appearance of receivership status, having in mind in this connection that if subsequent examination in the particular case indicated that the condition of the bank would admit of reopening or reorganization, it would be in a much more favorable situation to resume operations if its business and management were preserved intact to the extent permitted by its circumstances.

It was not considered that in following this policy, the factor of leaving the old management and stockholders "in the saddle" was involved, inasmuch as when the bank was placed in conservatorship, its affairs were thereafter entirely in the hands of the Comptroller, the conservator being, by law, placed under his direction and control and accountable only to him; and the bank, and its officers and directors and stockholders, being without power to interfere with the functions of the conservator or to carry on the operations of the bank.

With reference to representation of the depositors and creditors, and the protection of their interests, it may be observed, in the first place, that depositors and creditors have the legal right to organize depositors' committees, and they frequently do so, and the Comptroller welcomes such assistance and co-operation as the committee may be willing and able to render; and in the second place, regardless of whether depositors are represented by such committees, it may be borne in mind that the Comptroller of the Currency is a federal officer, charged by law with the protection of the rights of all parties—depositors and creditors and stockholders—and every effort is made to take such course as will be most advantageous to all parties concerned.

The reply of the Comptroller to this query indicates that probably the action taken was the best that could be expected under the circumstances. In view of the fact that responsible disinterested persons versed in banking practice were not to be found in the necessary numbers, and in so far as many of the unlicensed banks were in such a position through no obvious fault of their management, being rather the victims of circumstances, the appointment of former officers as conservators was amply justified. Moreover, any officer so appointed found himself circumscribed to those actions permitted him by the Comptroller. In some cases it would probably have been better to have appointed officers of the bank rather than the relatively incompetent conservators who were brought in from outside.

A few cases of alleged defalcation by conservators have been brought to light, including some in which the conservator was a former officer.<sup>24</sup> In view of the numerous instances of misappropriation of funds by bank officers, however, these instances have not occurred with startling frequency.

### III. CONTROL BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

The Banking Act of 1933, in the section which sets up the Federal Deposit Insurance Corporation,<sup>25</sup> takes a long step toward complete unification and centralization of the supervision of closed bank administration. Upon the suspension of a bank whose deposits are insured by the Corporation, it is intended that the Corporation shall automatically become receiver for the bank.<sup>26</sup> In the case of national banks, all of which subscribe to deposit insurance, the Comptroller must appoint the Corporation as receiver; and in the case of state banks, if state law permits, the Corporation may accept such appointment. As most states now provide that their supervisors must be appointed receivers, considerable amendment of their laws will be necessary before the FDIC can act as receiver for all its members. The Assistant Attorney-General of Alabama, however, has ruled that under a provision of the law of that state to the effect that the Superintendent may appoint agents to aid in liquidation, the FDIC may be appointed re-

<sup>24</sup> See *American Banker*, Nov. 10, 1933; Jan. 3, 1934; Jan. 19, 1934; Jan. 20, 1934; and Mar. 21, 1934.

<sup>26</sup> It should be noted, perhaps, that the system instituted under the FDIC is an adaptation of the North Dakota idea referred to on p. 37. Upon the suspension of a bank it passes out of the supervision of the Comptroller of the Currency (or the state banking department in the case of a state bank) and becomes the responsibility of the Corporation. The Comptroller, it is true, is a member of the Corporation Board, and so shares in the supervision of closed banks.

ceiver.<sup>27</sup> A similar opinion has been handed down by the Attorney-General of Florida.<sup>28</sup>

The temporary insurance provisions of the Banking Act of 1933 have been extended until June 30, 1935 by an amendment dated June 16, 1934. This amendment specifically states that the provisions relating to the appointment of the FDIC as receiver shall apply to all members of the temporary fund.<sup>29</sup>

While there is much to be said for the centralization of supervision of this function, in so far as that is possible, in view of the necessity of local handling of local assets, questions may well be raised with respect to the particular method of centralization adopted. The FDIC will be the heaviest creditor of a suspended bank, and so an interested party. After paying insured deposits, the Corporation becomes subrogated to the rights of the depositors who benefited by reason of such insurance. In reality it becomes the largest depositor of the bank.

True, a bank receiver is supposed to represent primarily the depositors and other unsecured creditors. Indeed, in one state, South Carolina,<sup>30</sup> the liquidation of banks is by law placed in the hands of receivers elected by the depositors and unsecured creditors, the banking department having no supervision over the administration of such assets. But the very fact that the actions of bank receivers are subject to the approval of local courts lends color to the view that the receivers are expected to deal fairly with all parties, including the shareholders, and, where possible, make some return to the owners of the banks.

<sup>27</sup> Code of 1923, Sec. 6309, interpreted in an opinion of Apr. 2, 1934.

<sup>28</sup> Mar. 30, 1934.

<sup>29</sup> 73 Cong., Public No. 362, Sec. 4.

<sup>30</sup> Letter of Sept. 28, 1933 from E. P. Miller, chief bank examiner of South Carolina.

The actions of the FDIC as receiver for suspended banks will, of course, be subject to the approval of local courts. Moreover, since it is a quasi-governmental body, it may be expected to administer assets fairly with respect to the rights of all depositors. In addition, since the Comptroller of the Currency is a member of the board of the FDIC, it is likely that the Division of Insolvent Banks of his office will be taken over as the nucleus of the Corporation organization for handling closed banks.

The FDIC early found that difficulties grow out of a divided authority over and responsibility for closed banks. The first bank to "fail," the deposits of which were insured by the Corporation, was a Pennsylvania state chartered institution. Although the bank was closed in April, the Pennsylvania Secretary of Banking delayed the appointment of a receiver for months, thus rendering it impossible for the FDIC to proceed with paying off insured depositors. The second insured institution to close was an Illinois state bank. There, also, a short delay was occasioned by reason of a provision of the state law for a ten-day period between the closing of the bank and the beginning of its liquidation.



**PART II**  
**LIQUIDATION**

## CHAPTER V

### THE LIQUIDATION PROCESS

In Chapters II, III, and IV we have described briefly the technical organizations which administer the affairs of closed banks. In this chapter and those immediately following we examine the procedure which is used in winding up the affairs of the banks which failed, and summarize the results which have been obtained. Chapters V-VIII deal with the liquidation of banks; Chapters IX and X with reorganization and reopening.

#### I. THE SELECTION OF RECEIVERS

The appointment of receivers is the source of much difficulty, and has given rise to many allegations of political pressure and irregularity. Should the receiver be a local resident or would a stranger be more disinterested? Should he be a lawyer so that he can himself handle the legal business of the receivership? Where liquidation is in the hands of the supervising agency, should the legal staff be that of the bank commissioner, that of the Attorney-General, or that of the local bar?

Before the creation of a corps of specialists in liquidating closed banks, the office of the Comptroller of the Currency accepted Congressional suggestions as to receivership appointments, always with the understanding, of course, that a person with the necessary qualifications was proposed. This practice has been revived recently since the bank fatalities have been so numerous that the professional staff of the Comptroller cannot handle them all. It would be too much to hope that this system is free from abuse, and there has been much criticism in

the press of appointments smacking of political favoritism.<sup>1</sup>

Charges that there have been irregularities in the conduct of receiverships of closed banks are not infrequently made. Bank supervisors in a number of states in recent years have been indicted for maladministration. Sometimes these indictments are for failure to close banks, sometimes for closing them without cause, and sometimes for the manner in which the assets are administered in receivership. An investigation and report made in 1930 by the Attorney-General of South Dakota charged neglect and loss as a result of the methods employed by the State Banking Department in managing the affairs of closed banks.<sup>2</sup> Legislative investigations are now in progress in Pennsylvania and Ohio.

Some students of the subject charge that the entire bank receivership system is wasteful and inefficient. They blame in part the fact that receiverships have been doled out as political "plums," the recipients of which attempt to make as much commission as possible, and to keep the job going as long as possible.<sup>3</sup> It must be admitted that, except where liquidation is a regular function of an agency with established personnel, such charges have frequently been substantiated.

Some states have not had a sufficient number of bank

<sup>1</sup> For an inside glance into some of the difficulties which at one time, at least, surrounded the appointment of receivers for national banks, and the attempt to get away from politics, see Thomas P. Kane's *Romance and Tragedy of Banking*, pp. 501-07. For discussion of recent practice, see *Cong. Record*, Mar. 20, 1934, Vol. 78, p. 5076.

<sup>2</sup> "Banking Investigation," *Report and Supplemental Reports of the Attorney-General of South Dakota to the Legislature*, 1930-31.

<sup>3</sup> H. Parker Willis, John M. Chapman, and Ralph West Robey, *Contemporary Banking*, 1933, p. 377; 73 Cong. 2 sess., Hearings on H.R. 8479 before sub-committee of the Committee on Banking and Currency, Mar. 21, 1934 (statement of Representative Luce).

failures to justify the elaborate system of supervised liquidation which exists in the national system. The Special Commission which reported in December 1932 on the Massachusetts situation gave a succinct opinion on that point:

In this commonwealth, and during the terms of various bank commissioners, the practice of appointing lawyers and attorneys as liquidating agents has been built up and very generally followed because of the vast amount of legal work connected with liquidation. This practice differs from the custom obtaining in the liquidation of national banks, for which a corps of more or less expert receivers has been created who are paid on a salaried basis, and who are subject to transfer from place to place throughout the United States as need may require. The federal system has found no means, however, to dispense with lawyers, and, still less, with the necessity of paying them. Each national bank receiver invariably has counsel assigned to assist him; and in addition the Comptroller finds it necessary to maintain at Washington a staff of attorneys permanently at work upon legal problems arising in bank liquidation, the cost of whose services is apportioned among the insolvent national banks. In Massachusetts, on the other hand, the liquidating agent of a state bank may and often does do all his own legal work.

Several basic conditions make any extensive change of the commonwealth's practice difficult, if not impossible, to accomplish. In the first place, the record of the last 20 or more years, since the enactment of the liquidation statute, shows that bank closings in Massachusetts have occurred only at long intervals covering at least ten years, whereas, taking the United States as a whole, national bank closings occur in one section or another almost continuously. Consequently, it is possible under the federal government to build up a corps of trained liquidators, whereas this is not feasible in Massachusetts. In the second place, trained bank men of caliber adequate to handle the intricate problems of liquidation are seldom found available when need is most pressing, their services usually being pre-empted by the banking institutions in which they are already employed. Finally, questions arising in a liquidation necessarily require legal knowl-

edge and often the promptest sort of legal action in order to conserve the assets of the depositors. Experienced receivers, having the assistance of counsel as in the national system, are, of course, qualified to handle such matters well, and the Commission sees no intrinsic objection whatever to the employment of such personnel.<sup>4</sup>

Nevertheless, the Massachusetts Commissioner has set up in his office a central organization

. . . in the interest of uniformity and economy, to control administration of the affairs of the closed banks. This is similar to the office established in the national government under the Comptroller of the Currency, and was made effective on June 1, 1932. This central organization consists of a supervisor of liquidations appointed on August 4, 1932, and an acting assistant supervisor, general liquidation counsel, two clerks, two circuit auditors and one stenographer. To meet the expenses of the organization to date, an assessment has been made upon each closed bank to the extent of one-thirtieth of one per cent of the total assets as scheduled on the date of closing. This method of assessment likewise follows the practice adopted by the Comptroller of the Currency in the liquidation of national banks.

The Commission is convinced that the creation of this central organization has proved an eminently desirable step of progress. It co-ordinates the work of the liquidating agents. In so far as possible it brings under the control of one head many of the legal, financial and administrative problems which arise in the closed banks, and in various other ways it simplifies and unifies the work of handling a number of liquidations at the same time. Thus it reduces the aggregate expense to the depositors. In fact, the Commission gave considerable thought to the possible desirability of making such an organization permanent, through creating by legislation a division of liquidation. The Commission decided against this, however, since it is evident that the powers of the Commissioner are now broad enough to set up such an organization in times when special need exists for its services, and since the Commission is confident that the necessity for

<sup>4</sup> *Report of the Massachusetts Special Commission on Revision of the Laws Relating to Trust Companies and Private Banks, and to the Liquidation of Banks*, H. rep. 1184, December 1932, pp. 21-23.

liquidating closed banks will never be continuous in this commonwealth.<sup>5</sup>

The system of liquidation by salaried employees of the State Banking Department was given the approval of the Indiana Study Commission for Financial Institutions which reported in 1932, most of whose recommendations were adopted by the legislature of that state:

Some critics of the cost, inefficiency, and slowness of the present system of liquidation of failed financial institutions have attacked the honesty and intentions of receivers and attorneys in charge. Many indictments of this nature are probably undeserved. Receivers and attorneys appointed by the courts in most instances have little or no experience with bank matters, and consequently are required to devote much more time to the liquidation of an institution than would be required of experienced persons. The routine matters connected with the liquidation of closed financial institutions, such as the listing of assets, the publication, filing, and approval of claims, the collection and compounding of debts, and the sale and disposal of property, can be handled at much less cost by employees of the department who are paid regular salaries and who under ordinary conditions should be able to supervise the liquidation of several institutions at the same time.<sup>6</sup>

Several bank supervisors have commented in a similar vein.

## II. CONFLICTING CLAIMS

We consider next certain troublesome questions concerning the rights of different classes of debtors and creditors, which almost invariably complicate the liquidation process.

*Preferences.* The only claims against the estate of an insolvent national bank which were entitled to preference by the terms of the National Bank Act were those

<sup>5</sup> The same, pp. 17-18.

<sup>6</sup> *Report of Indiana Study Commission for Financial Institutions*, p. 98.

of the holders of circulating notes. These are, of course, fully protected by deposit of United States securities with the Treasury. Litigated cases have determined, however, that in certain other instances claimants are entitled to preferred payment. These claimants are referred to as preferred creditors and their claims are called preferences. The working rule given by the Comptroller for the determination of preferences is that (1) a trust relationship must be proved as having existed between the bank and the claimant, and (2) it must be proved that the specific property or cash proceeds thereof passed into the hands of the receiver.

Special deposits of personal property held by the bank for safekeeping may be delivered to proved owners, but if the owners are indebted to the bank, it may be advisable for the receiver to attach such property. Deposits of money made for a special purpose are not preferred unless the trustee relationship is proved and other preference tests are met.

National banks had, prior to June 25, 1930, no authority to make any pledge to secure deposits except federal deposits specifically provided for by acts of Congress.<sup>7</sup> An act of that date (amending R.S. 5153) provided, however, that national banks may give security for deposits of states and their political subdivisions of the same kind as is authorized for state banks by the laws of the state in which the national bank is located. A different rule obtains, of course, for the special trust deposits in restricted and conservatorship banks operating under the Emergency Banking Act of 1933 and similar state legislation.

*Interest on claims.* The accrual of interest on claims

<sup>7</sup> *Texas and Pacific Railway Co. v. S. O. Potorff, Receiver of the First National Bank of El Paso, Tex.*, 291 U.S. 245.

X62:(Z).73.N3

stops at the date of suspension, unless the creditor holds collateral from which a sum sufficient to pay his interest is realized, or unless an amount sufficient to pay all creditors the principal amounts due them is realized from the liquidation of the assets. But such payment at the legal rate, or at the highest rate below that justified by the amount of money on hand, must be made before any distribution is made to shareholders.

*Offsets.* The question of offsets is always one which causes concern and difficulty for the receiver and confusion and bewilderment to the depositor or other creditor. Recent months have brought a flood of complaints from small depositors who owed their banks small amounts of money, when it appeared that their deposit accounts could not be set off against their notes, by reason of the fact that the notes had been transferred to the Federal Reserve Bank, the RFC, or some other agency as collateral for indebtedness of the bank itself.

Each claim for an offset must be determined upon the basis of the particular facts disclosed, and many of them have to be referred to the Comptroller of the Currency for final decision. However, the principal rules of offsets which have been established by court decisions, there being no stipulations with respect thereto in the federal statutes, are as follows:<sup>8</sup>

1. The maker of a note or other negotiable instrument held by the bank can set off a claim against the bank for money shown by the books of the bank to be on deposit to his credit.

2. One who is indebted to the bank and who holds, as payee or indorsee, a certificate of deposit issued by the bank, which he acquired before and held at the time

<sup>8</sup> *Instructions to National Bank Receivers*, pp. 60-64. This source gives several case references.



of its suspension of business, is entitled to set the same off against his indebtedness to the bank.

3. The rule which applies to deposits is also applicable to cashier's checks issued by a bank and checks of depositors certified by it.

4. The rule with respect to certificates of deposit and checks is applicable in the case of drafts of the bank. In such cases, it is not always necessary that the claimant should have actually held the drafts at the time of suspension; they may have been transmitted as payment to another, and later, when dishonored or refused, returned to him.

5. An individual deposit cannot be set off against a joint debt, nor a joint deposit against an individual debt.

6. An indorser of a note held by the bank is entitled to set off against his liability as such any indebtedness from the bank to himself, regardless of the solvency of the maker, *provided the indorser is sued alone*.

7. An executor, administrator, or public officer is not entitled to set off against his liability as such an indebtedness from the bank to himself individually, nor vice versa.

8. One who is indebted to the bank cannot set off against such indebtedness a claim against the bank acquired by him subsequent to its suspension of business.

9. The right of set-off is not affected by the question whether the indebtedness sought to be set off was or was not due at the time the bank suspended business.

10. If an account carried in the name of a minor child in truth belongs to the parent, the parent may set it off against his own indebtedness to the bank.

Special rulings are frequently necessary in cases where, under modern legislation, the general property of a wife, as well as her separate property, is under her

exclusive control, where the husband or wife who is indebted to the bank wishes to set off a deposit in the name of the other; or where it is requested that a balance due a firm be set off against the indebtedness of a member thereof; and in other instances. The case of *Dakin v. Bayly*, decided by the Supreme Court of the United States late in 1933, is said to be the first case involving set-off in a national bank receivership to come before that tribunal in 40 years.

*Investment of funds to protect assets.* A receiver may ask the Comptroller for and be given authority to use funds of the bank to protect equities in property, real or personal, by reason of a bond, mortgage, assignment, or proper legal claim attaching thereto. Such investments may be only at the sale of the property under execution, decree of foreclosure, or proper order of a court of jurisdiction.

A receiver may, if the Comptroller approves, pay off incumbrances such as unpaid taxes or mortgages and remove clouds to legal titles of property which he holds. The only other use of a bank's funds permitted to a receiver is for necessary expenses of the receivership.

Generally speaking, receivers have no authority to borrow money. The recent authorizations to borrow from the RFC and other agencies to make advance dividend payments to depositors are an exception to this rule.

### III. NEWER METHODS OF LIQUIDATION

Before the onset of the current depression closed banks were only rarely bought up by open banks, though there were a number of important cases where distressed banks were taken over by their competitors in order to prevent a shock to public confidence in the banking structure. Recently, however, a large number

of banks have been liquidated by the sale of their assets in block. The best known of these plans is the so-called Spokane Plan.

*The Spokane Plan.* Under this plan the new bank agrees to buy, and the conservator to sell, certain assets at an agreed value. These assets are selected by the new bank, and are designated and identified as Class A assets. All assets of the bank which are not accepted by the new bank are listed and are designated as Class B assets.

The purchasing bank buys all of the Class A assets and pays for them a sum corresponding to 100 per cent of the known estimated net secured liabilities of the old bank, plus an agreed percentage of the known and estimated unsecured liabilities. In addition, the purchasing bank agrees to buy Class B assets, if available, to cover any unknown and undisclosed claims which may later be established (100 per cent of preferred claims plus the agreed percentage of unsecured claims).

For a period of time, which in early reorganizations was as long as two years, but more recently has been fixed at from three to six months, the purchasing bank is given the right of "asset substitution"; that is, it may return to the conservator any of the bills receivable it has bought and receive in exchange cash, if available, or other assets.

During this substitution period, the conservator has the right, when funds in specified amounts are available, to offer them in exchange for Class A bills receivable held by the purchasing bank, and to be selected by it for exchange. If the purchasing bank does not, within ten days, effect the exchange, it loses its right thereafter to tender any assets for cash. The purchasing bank has the right, during the substitution period, of permitting renewals of Class A bills receivable.

The conservator (or a receiver who may be appointed to replace him) proceeds with the liquidation of Class B assets left in his hands and any other assets accruing to the old bank. In the course of that liquidation, double liability assessments may be levied against shareholders of the old bank.

The contract of sale by which the purchasing bank agrees to pay and the conservator to sell assets of the old bank, must be approved, not only by the Comptroller of the Currency, but also by a court of competent jurisdiction. When acting in this capacity, and representing the "best interests of the creditors" of the old bank, he must have court approval of all transactions into which he enters.

Depositors, under this plan, are given dividend certificates advising them that a percentage of their deposits is available to them at the purchasing bank, either in cash or as a deposit account. Depositors are encouraged, if they so desire, to utilize a portion of the funds which are disbursed to them for the purpose of subscribing to stock in the purchasing bank, especially where it is a newly organized institution. So-called trust-account deposits accepted by the conservator during the period of conservatorship are, after the 15-day statutory notice period, transferred to the purchasing bank as ordinary deposits, for the benefit of the respective depositors.

The "Spokane Sale" Plan is generally regarded as more favorable to the depositor than to the stockholder. The depositor is not required to waive any portion of his deposit. He receives a substantial immediate dividend, and eventually as large a percentage as the liquidating value of the assets, including collections on account of stockholder liability, will warrant.

The plan is described briefly by F. G. Awalt, deputy comptroller of the currency, as follows:

The plan which we have used most successfully is what is known as the "Spokane Plan." This plan contemplates the sale of good and acceptable assets to a going bank in the same community for an amount sufficient to enable the receiver to pay a substantial first dividend to the creditors, such payment being made by credit on the books of the purchasing bank subject to immediate withdrawal, or on such terms as may be agreed upon by the individual creditors. Of the assets so purchased, the bills receivable are taken at face value, plus accrued interest, the securities are purchased at market value and the real estate at an appraised value. The assets not sold remain in the receiver's hands and the proceeds thereof, together with the proceeds of a stock assessment are available to the purchasing bank in exchange for acceptable bills receivable purchased by it. In this way the purchasing bank is protected for a reasonable length of time against loss in the assets so purchased. It has been our experience that a substantial percentage of the deposits so set up on the books of the purchasing bank remain with that institution. In fact, the most recent case, that of the sale of a portion of the assets of the Bank of Pittsburgh, to the First National Bank of Pittsburgh, was most satisfactory to the purchaser in that it lost only about 5 per cent of the credits set up on its books.<sup>9</sup>

The use of the Spokane Plan dates back to 1928. The assets of seven national banks were sold to other banks in that year without the intervening appointment of a receiver. Later, however, it became necessary to appoint receivers for the sole purpose of collecting double liability assessments against stockholders.<sup>10</sup> The purchasing banks having assumed the deposit liabilities of the closed institutions succeeded to the depositors' claims against the shareholders, and actions were brought for their

<sup>9</sup> "Reorganizing Closed Banks," *American Bankers Association Journal*, May 1932, p. 730.

<sup>10</sup> *Annual Report of the Comptroller of the Currency*, 1928, p. 13.

benefit against the shareholders. Further use of this new device was made in 1929 and subsequent years.

The Spokane Plan has been used by some of the state banking departments as well. The plan "has many variations," according to the Massachusetts Special Commission on bank liquidation, "but in essence it simply provides for the purchase by a going bank of certain good assets of a closed bank for 100 cents on the dollar, by making immediately available to the depositors a credit to the same amount on the books of the purchasing bank. A lien on the remaining assets is retained by the buying bank for an agreed period, usually approximating 18 months."<sup>11</sup>

The Massachusetts Commission saw as advantages of the Spokane Plan the preservation of the value of the banking offices and equipment of the closed institution, which could be continued in use as branches of the purchasing bank; continuity of service to the community, with consequent increase of deposits and of good will; and immediate availability to depositors of all or a portion of their funds. The Commission recommended legislation making easier the purchase in bulk of the assets of a closed bank, and authorizing the Commissioner of Banks, in such cases, to waive provisions of law relative to the investment of the funds of savings banks and savings departments, and to suspend the limitations placed upon deposits in savings banks. The limitation restricting investment in real estate to 70 per cent of the amount of deposits, they pointed out, often made it impossible for going savings banks to assist a closed neighbor bank by the purchase of part or all of its as-

<sup>11</sup> *Report of the Massachusetts Special Commission on Revision of the Laws Relating to Trust Companies and Private Banks, and to the Liquidation of Banks*, p. 27.

sets, even though the going bank might be convinced that such a purchase could be accomplished on terms which would not affect its own liquidity. The report continues:

And this inability to take constructive action, it must be remembered, may cause serious damage to the banks remaining open in that locality, for the sale of real estate in possession of the closed bank through forced liquidation may result in establishing prices for property in the neighborhood far below the real value, and at such a figure as to impair the financial soundness of the open banks.<sup>12</sup>

In partial accord with this recommendation, the banking law was amended in February 1933 so as to permit banks to purchase the assets of closed banks, or to make loans against them, assuming their liabilities to depositors.<sup>13</sup>

*The Manufacturers Trust Plan.* A method very similar to the Spokane Plan is the New York procedure, whereby the Manufacturers Trust Company acted as liquidating agency for a number of both national and state banks.

The first use of this device was in connection with the liquidation of the Lebanon National Bank of New York. Within 24 hours after the decision was made to liquidate that bank, its 3,100 depositors with deposits aggregating \$474,000 were informed that 100 per cent of their balances were available for them at the most conveniently located branch of the Manufacturers Trust Company.<sup>14</sup> They could accept cash or continue their banking relationship with the paying bank.

<sup>12</sup> The same, pp. 27, 28.

<sup>13</sup> Gen. Laws, Tercentenary Ed., Chaps. 168 and 172, amended by L. Mass., 1933, Chap. 41, approved Feb. 24, 1933.

<sup>14</sup> In some cases the closed banks were continued as branches of the Manufacturers Trust Company.

The method by which this transaction was arranged is told briefly by Charles C. Clough, comptroller of the Manufacturers Trust Company.

In arranging this plan of liquidation, it was necessary to get the consent of the directors of the Lebanon and two-thirds of its shareholders. A formal agreement was drawn between the participating banks wherein the Manufacturers Trust Company agreed to lend to the Lebanon National some \$474,000, the loan to be secured by all the assets of the latter. A check for this amount was then turned back to Manufacturers Trust Company, who assumed the deposit liabilities in full. The agreement provided that as the assets were liquidated, the proceeds therefrom were to be applied to the reduction of the original loan. Provision was made in the agreement for the disposition of income and expenses incurred during the period of liquidation, and the return of unliquidated assets to the Lebanon's Liquidating Committee after the loan and all claims held by the trust company had been satisfied.<sup>15</sup>

The procedure was followed later with four other banks, and, with the co-operation of other New York banks, a second group of five was similarly liquidated. The second plan provided that 21 New York banks, of which Manufacturers Trust Company was one, and in which group two private banks—J. P. Morgan and Company and Speyer and Company—were included, would advance whatever amount might be needed up to 50 per cent of the deposits of the closed banks. As the assets were liquidated, proceeds above the amount necessary to reimburse this advance were turned over to the Banking Department for further distribution. A contract between the New York State Banking Department and the Manufacturers Trust Company which had the approval of the Supreme Court of the State of New York

<sup>15</sup> "Successful Program of Bank Liquidation," *Trust Companies*, October 1933.



and of two-thirds of the shareholders of the respective banks to be liquidated governed the procedure.

Ten banks with 28 banking offices were liquidated by the Manufacturers Trust Company. Some \$37,795,000 was made available promptly to 108,800 bank customers. Mr. Clough states:

Three things were definitely accomplished. Business men whose working capital was frozen, were given relief through the release of their bank balances, and at the same time, were given immediate substantial banking connections which would enable them to continue in business; apparent distress among depositors was relieved at once; and the entire process of liquidation was accomplished more expeditiously and economically than was thought possible.

. . . It was possible for debtors to renew their notes when conditions warranted and to carry on business exactly as if they were associated with a going concern. . . . Each of the branch managers . . . studied the merits of each case. . . . Every precaution was taken not to interfere with or delay the business of these unfortunate depositors. Assets did not have to be sacrificed to the degree that is inevitable under forced liquidation.<sup>26</sup>

Chairman Crowley of the FDIC has recommended that his organization be given the power to sell the assets of closed members to neighboring institutions, as an alternative to opening a new national bank.<sup>27</sup>

There have been a few similar procedures in other states. The new branch-banking law of New York suggests that branches may be established by taking over banks in liquidation. The Citizens Trust Company of Toledo is increasing its capital preparatory to purchasing the remaining prime assets of the Ohio Savings Bank and Trust Company, closed since August 1931, and moving into the latter's quarters. The facilities of the

<sup>26</sup> The same.

<sup>27</sup> Speech before the Executive Council of the American Bankers Association, Hot Springs, Ark., in *American Banker*, Apr. 19, 1934.

Citizens Trust Company have also been offered to the superintendent of banks for the liquidation on a cost-plus basis of any other closed Toledo bank.<sup>28</sup>

However, the use of this plan depends upon the ability of some well-established bank to profit thereby. The Manufacturers Trust Company or any other going bank will undertake additional liquidations only if it expects to gain new depositors or borrowers, which precludes the extension of such relief to a bank outside the territory in which the buying bank operates, or to a bank in its territory which does not have a desirable list of customers. The Manufacturers Trust, it should be noted, has received only actual expenses as cash compensation. In addition, it has received all the interest on assets taken over, but none on funds advanced.

<sup>28</sup> *American Banker*, Apr. 11, 1934.

## CHAPTER VI

### THE EXPENSES OF LIQUIDATION

The expenses of receivership are a source of constant complaint against the supervisors of closed banks. There has been a constant endeavor to reduce costs, and certainly some progress has been made along that line.

The National Bank Act provides that "all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof."<sup>1</sup> Each national bank for which a receiver is appointed must bear a portion of the expense of maintaining the Division of Insolvent Banks in the office of the Comptroller of the Currency.

The Comptroller each year must report separately the expenses incurred in liquidation of every failed national bank. Moreover, he must report all receivers, attorneys for receivers, and clerks employed by receivers whose salary or compensation is paid from the Treasury of the United States or assessed against or collected from failed banks.<sup>2</sup> His practice is to reduce salaries as the liquidation progresses. The average cost to closed national banks for receivers' salaries as of June 30, 1934 was \$1,924.<sup>3</sup>

Attorneys for receivers of national banks are designated by the Comptroller, and are compensated on a fee basis. They are employed "with the distinct understanding that all fees must be reasonable."<sup>4</sup> It is expected that bills for legal service be accompanied by an itemized

<sup>1</sup> R.S., Sec. 5238.

<sup>2</sup> 32 Stat. L. 138.

<sup>3</sup> Information obtained from the office of the Comptroller.

<sup>4</sup> *Instructions to National Bank Examiners*, p. 83.

account of the service performed. These bills must be approved by the Comptroller before payment.

National bank receivers are advised to retain in service only such a force as is absolutely necessary to administer the affairs of the trust so as best to serve the interests of the real owners. Salaries, which must be approved by the Comptroller, are determined partly by local considerations. Incidental expenses should be kept down also, receivers are instructed. The instructions of the Comptroller even suggest the advisability of using the stationery supply on hand in the bank, with the name and title of the receiver printed over the title of the bank.<sup>6</sup>

Expenses incident to the administration of the 1,155 national bank receiverships which had been finally terminated up to the first of November 1933, amounted to \$32,030,848, or 3.9 per cent of the book value of the assets and stock assessments administered, or 6.66 per cent of the collections from assets and stock assessments.<sup>6</sup> For the 97 trusts which were terminated in the year ending October 31, 1932, the expenses were \$3,041,623, or 3.63 per cent of the book value of the assets and stock assessments administered, or 5.66 per cent of collections therefrom.<sup>7</sup> The following year, expenses were \$2,157,758, which was 3.87 per cent of the book value of the assets and stock assessments, and 6.78 per cent of the collections.<sup>8</sup>

The Federal Reserve Committee on Branch, Group, and Chain Banking investigated the expenses of liquidation of 267 national banks closed in the period 1921-30 and completely liquidated at the time the data were

<sup>6</sup> The same, p. 68.

<sup>7</sup> *Annual Report of the Comptroller of the Currency*, 1933, p. 34.

<sup>8</sup> The same, 1932, p. 14.

<sup>9</sup> The same, 1933, p. 35.

compiled, 1931. For the United States as a whole, the figures show that the average ratio of expenses of liquidation to total resources (book value of assets at time of suspension) is 5.0 per cent, while the ratio of expenses of liquidation to total collections is 8.5 per cent.

The table below shows their tabulation, by regions.

EXPENSES OF LIQUIDATING 267 SUSPENDED NATIONAL BANKS, BY REGIONS  
1921-30<sup>a</sup>

(Dollar items are in thousands)

Region	Number of Banks	Expenses of Liquidation	Total Collections	Ratio of Expenses to Total Collections (Per cent)
Southeastern . . . . .	21	\$ 363	\$ 3,756	9.7
Southwestern . . . . .	50	1,197	16,578	7.2
Western Grain . . . . .	83	1,744	18,680	9.3
Rocky Mountain . . . . .	86	1,915	19,867	9.6
Pacific Coast . . . . .	13	347	4,269	8.1
Other regions <sup>b</sup> . . . . .	14	379	6,994	5.4
United States . . . . .	267	\$5,945	\$70,144	8.5

<sup>a</sup> *Bank Suspensions in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, p. 87.

Banks which suspended during 1921-30 and which had been completely liquidated at the time the suspension schedules were prepared. Expenses of liquidation and total resources at time of suspension were compiled from the annual reports of the Comptroller of the Currency.

<sup>b</sup> New England, Middle Atlantic, North Central, and Southern Mountain.

The expense of liquidating a small bank is materially higher in proportion to total resources than is the case in larger banks, the Federal Reserve Committee found. Among the banks under review, only two out of the six with resources in excess of \$500,000 showed a ratio of over 8 per cent, while 53 out of the 110 with resources below \$250,000 over-ran that percentage. The table is given on the next page. There are no satisfactory data concerning the expenses of liquidation of state banks.

No two banks present conditions sufficiently alike to

**RATIO OF EXPENSES OF LIQUIDATION TO RESOURCES AT TIME OF SUSPENSION OF 267 COMPLETELY LIQUIDATED NATIONAL BANKS, BY SIZE GROUPS, 1921-30<sup>a</sup>**

Ratio of Expenses of Liquidation to Total Resources	Number of Banks Classified by Amount of Resources							Total
	Under \$250,000	\$250,000 to 500,000	\$500,000 to 750,000	\$750,000 to 1,000,000	\$1,000,000 to 1,500,000	\$1,500,000 to 2,000,000	\$2,000,000 and Over	
0-2.....	2	1	3	1	1	3	1	12
2.1-4.....	13	7	11	6	7	5	1	50
4.1-6.....	13	29	17	6	4	—	1	70
6.1-8.....	29	25	3	1	—	2	1	61
8.1-10.....	26	10	1	—	1	—	—	38
10.1-12.....	15	7	—	—	—	—	—	22
12.1-14.....	4	2	—	—	—	—	—	6
14.1-16.....	4	—	—	—	—	—	—	4
16.1-18.....	1	—	—	—	—	—	—	1
18.1-20.....	2	—	—	—	—	—	—	2
20.1 and over....	1	—	—	—	—	—	—	1
Total.....	110	81	35	14	13	10	4	267

<sup>a</sup> *Bank Suspensions in the United States*, p. 88.

make possible the standardization of the administration of the liquidation, it was concluded by the 1932 Massachusetts Commission. “. . . In one bank the major legal problems may be few and comparatively simple, in another many and complicated. One bank may be loaded with real estate in foreclosure and in possession, and thus may constitute a special problem in administration, requiring the organization of a real estate department with trained employees whose work must continue over a long period of time. In another the real estate problem may be simple and quite promptly disposed of.”<sup>9</sup> Legal expenses are especially heavy in the early years following the enactment of a federal or state receivership statute. After litigation has more or less settled the judicial interpretation of the law and precedents have become established, the legal expenses tend to diminish.

The Commission “made every effort to find . . . some fixed standard of measurement” for the compensation of liquidating agents and their assisting counsel. The Commissioner of Banks, it reported, has in practice made use of a rough and ready scale based on a number of factors, such as the deposit liabilities, the aggregate amount of the assets, and other criteria, fairly satisfactory as a general guide, in their opinion, but too rigid to be enacted into law.<sup>10</sup> Obviously, such factors may have little correlation with the expenses of collection caused by such factors as extensive litigation.

The Massachusetts Commission gives, in an appendix to its report, some statistical data on and discussion of the expenses of receivership in that state. For receiverships completely terminated the percentage of ex-

<sup>9</sup> *Report of the Massachusetts Special Commission on Revision of the Laws Relating to Trust Companies and Private Banks, and to the Liquidation of Banks*, H. rep. 1184, December 1932, p. 23.

<sup>10</sup> The same, p. 23.

EXPENSES OF LIQUIDATION

penses to collection has averaged nearly 5 per cent.<sup>11</sup>

The Indiana Commission, after pointing out that statistics on the cost of receiverships of failed banks have been extremely difficult to compile, gave as its opinion that "the cost of liquidating financial institutions under the ancient Indiana receivership system averaged probably not less than 12 per cent of the deposits involved."<sup>12</sup>

EXPENSES PAID FOR FLORIDA BANKS IN LIQUIDATION, JUNE 30, 1933<sup>a</sup>

Expense	Expenses Paid Six Months End- ing Dec. 31, 1932	Expenses Paid Six Months End- ing June 30, 1933
Attorney's fees.....	\$ 243,871.61	\$ 38,751.60
Court costs.....	58,169.17	18,019.70
Taxes.....	125,160.41	54,477.61
Insurance.....	36,671.67	17,423.03
Interest.....	12,797.27	446.56
Salaries.....	187,189.73	98,713.47
Rent.....	19,886.62	9,711.86
Travel expenses.....	10,166.07	8,447.53
Supplies, telephone and telegraph....	18,126.95	12,526.31
Property maintenance.....	114,605.43	46,096.27
Miscellaneous expense.....	38,781.84	19,476.68
Auditing.....	1,125.00	—
Bills payable.....	15,092.06	—
Commission paid liquidator.....	183,783.87 <sup>b</sup>	18,113.29 <sup>c</sup>
Total.....	\$1,065,427.71	\$342,203.91

<sup>a</sup> Comptroller of Florida, *Annual Report for the Banking Department*, June 30, 1933, opposite p. 256.

<sup>b</sup> A large part of compensation to some liquidators has been included by former administrations in totals of salaries to employees.

<sup>c</sup> The salary of the general liquidator and his staff has been allocated to each bank actively in liquidation and charged into salaries.

In South Dakota, attorneys' fees were criticized as being unduly high. The Attorney-General recommended that all legal work in connection with liquidation be handled by his staff. He contended that this

<sup>11</sup> The same, p. 74.

<sup>12</sup> *Report of Indiana Study Commission for Financial Institutions*, 1932, p. 97.



method would effect a saving of five-sixths of this item of liquidation expenses.<sup>13</sup>

The appointment of a general liquidator in Florida reduced receivership expenses in that state. The table on page 83 gives a statement of expenses for the 137 Florida banks and trust companies in liquidation June 30, 1933, for the preceding six months during which the general liquidator was in charge, and for the six months before that, when individual liquidators were in charge of each separate institution.

New York has kept liquidating expenses down by means of a system which places closed banks in regional groups, with an examiner of the Banking Department in charge of each group. Part-time minor employees are stationed at the smaller banks to do work that cannot be handled at group headquarters. Other states and the Comptroller have also made use of consolidated receiverships, which are employed more often, however, only for two or more banks in the same community.

The RFC has been successful in reducing the compensation of bank liquidators to a considerable extent under its power to regulate compensation paid by institutions to which it makes loans.<sup>14</sup>

<sup>13</sup> Attorney-General of South Dakota, *Report to the Legislature of the Investigation of the Department of Banking and Finance, 1930*, pp. 28-30.

<sup>14</sup> See p. 8.

## CHAPTER VII

### LOSSES TO DEPOSITORS

The ultimate purpose of the receivership, if a bank is not to be reorganized, is the distribution of the proceeds of asset liquidation to depositors and other creditors. The most comprehensive study of losses to depositors which has been made was undertaken by the Federal Reserve Committee on Branch, Group, and Chain Banking.<sup>1</sup> Their data cover the ten-year period 1921-30 and relate to 267 national banks and 988 state banks which had failed during those years and which had been completely liquidated at the time of the study.

Claims of unsecured depositors in the 267 national banks were allowed to an aggregate amount of \$68,489,000,<sup>2</sup> on which total payments of \$34,034,000 were made. Unsecured depositors, it will be seen, received about 50 cents on the dollar, exclusive of offsets. Total offsets in the amount of \$9,227,000 were allowed. Had these been taken into account, the per-

<sup>1</sup> Data are also to be found in the *Annual Reports of the Comptroller of the Currency*, but the figures include secured claims and offsets; hence they give an erroneous picture of the proportion of deposits recovered by the ordinary unsecured depositor. For the 1,155 receiverships of national banks which had been finally closed as of Oct. 31, 1933, the average ratio of all payments to depositors to claims proved was 66.76 per cent. (The same, 1933, p. 33.) This figure does not include 117 banks restored to solvency. The comparable figure for the 97 receiverships which were finally closed during the year ending Oct. 31, 1932 was 68.76 per cent, and for the 69 which were closed in 1932-33 it was 60.18 per cent. (The same, 1932, p. 15; 1933, p. 35.)

<sup>2</sup> The Committee states that this figure includes a negligible amount of claims of secured creditors which it was not possible to segregate. See *Bank Suspensions in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, p. 94.

**CLAIMS OF AND PAYMENTS TO UNSECURED DEPOSITORS IN COMPLETELY LIQUIDATED BANKS, BY REGIONS, 1921-30<sup>a</sup>**  
(Dollar items are in thousands)

Region	National Banks				State Banks <sup>b</sup>			
	Number of Banks	Claims	Payments	Ratio of Payments to Claims (Per cent)	Number of Banks	Claims	Payments	Ratio of Payments to Claims (Per cent)
New England.....	1	\$ 279	\$ 187	67.0	1	\$ 1,612	\$ 1,612	100.0
Middle Atlantic.....	3	2,381	1,885	79.2	4	843	791	93.8
North Central.....	8	4,671	2,757	59.0	30	5,677	3,891	68.5
Southern Mountain.....	2	366	332	90.7	13	1,405	1,061	75.5
Southeastern.....	21	3,288	1,802	54.8	139	14,987	6,493	43.3
Southwestern.....	50	17,167	7,787	45.4	99	9,577	4,752	49.6
Western Grain.....	83	20,397	10,324	50.6	524	81,120	45,008	55.5
Rocky Mountain.....	86	17,449	7,418	42.5	128	16,914	9,832	58.1
Pacific Coast.....	13	2,491	1,542	61.9	50	23,674	17,451	73.7
United States.....	267	\$68,489	\$34,034	49.7	988	\$155,809	\$90,891	58.3

98

<sup>a</sup> *Bank Suspensions in the United States*, p. 96. Banks suspending during 1921-30 which had been completely liquidated at the time the schedules were prepared for the Committee, with the exception of 142 state banks for which information as to claims and payments is not available. The great majority of these liquidated banks suspended during the early part of the period under study. Data for claims and payments are exclusive of offsets.

<sup>b</sup> Guaranty fund payments are included.

centage of claims realized by unsecured depositors would be shown as 55.7.<sup>3</sup>

The aggregate amount of unsecured claims in the 988 state banks was \$155,809,000, on which payments of \$90,891,000 were made. Depositors in these banks thus received an average of 58.3 cents on the dollar, exclusive of offsets. Offsets included, the percentage is 62.0.<sup>4</sup>

While the Committee concluded that "for the majority of states and for the country as a whole . . . the state banks have shown somewhat better liquidation results,"<sup>5</sup> this conclusion was qualified by the explanation that the operations of state guaranty funds increased depositors' recoveries during this period.<sup>6</sup> The table on page 86 (from the Committee study) shows the claims of and payments to unsecured depositors in completely liquidated banks, by geographic divisions.

This table shows that where bank failures have been heaviest, depositor recovery has been least. Similar data, distributed by states, will be found in Appendix A.<sup>7</sup> If states with very few completely liquidated receiverships are excluded, the proportion of claims realized by depositors of state banks, exclusive of offsets, ranges from low figures of 27.8 per cent in North Dakota, 32.0 per cent in Arkansas, and 35.1 per cent in Montana to high figures of 66.1 per cent in Colorado, 72.9 per cent in Washington, 82.7 per cent in Tennessee, 84.3 per cent in Texas, and 100 per cent in Nebraska.

<sup>3</sup> The same, p. 95. In using these or any other figures on depositor recovery to show the extent of loss caused by poor bank management, it should be kept in mind that they are percentages of proved claims, and that not all claims are proved.

<sup>4</sup> The same, p. 95.

<sup>5</sup> The same, p. 99.

<sup>6</sup> The same, pp. 97-99. Moreover, because of gaps in the data, the conclusion as to state banks rests on analysis of only 87 per cent of the total number of banks fully liquidated.

<sup>7</sup> See pp. 248 and 249.

The high return in Nebraska is due to the fact that the banks reported to the Committee all failures during the years that the Depositors' Guaranty Fund was in operation and paying depositors' claims in full. Later disaster overtook the fund. In Texas and Washington also guaranty funds were in operation over part of this period. The North Dakota fund was practically inoperative during most of the period.

The Committee also investigated losses in banks which were reopened and taken over. Here, as would be expected, a much better showing was made. Of 1,197 such banks, 904, or over 75 per cent, paid unsecured depositors in full. Only 61 banks, or about 5 per cent, paid unsecured depositors less than 50 cents on the dollar. Here too, the Western Grain states made the poorest showing.<sup>8</sup>

CLOSED BANKS CLASSIFIED BY PERCENTAGE OF CLAIMS REALIZED BY UNSECURED DEPOSITORS, AND BY VOLUME OF LOANS AND INVESTMENTS, 1921-30<sup>a</sup>

Volume of Loans and Investments	Percentage Paid Depositors						Total
	0-19	20-39	40-59	60-79	80-99	100	
Under \$150,000	115	118	144	124	75	464	1,040
150,000 to 500,000	115	124	171	149	69	484	1,112
500,000 to 1,000,000	21	26	34	42	11	109	243
1,000,000 and over	8	6	15	21	12	66	128
Total . . . . .	259	274	364	336	167	1,123	2,523

<sup>a</sup> *Bank Suspensions in the United States*, p. 100. National and state banks suspended during 1921-30 which had been reopened, taken over, or liquidated at the time the suspension schedules were prepared for the Committee during the last half of 1930 and the first half of 1931, excluding 211 banks for which information is not available as to the percentage of claims realized by depositors. Data are exclusive of offsets.

Combined data for reopened, taken-over, and completely liquidated banks show that depositors in banks

<sup>a</sup> *Bank Suspensions in the United States*, pp. 91, 92.

with over a million dollars in loans and investments realized a higher percentage of claims than depositors in smaller banks. The Committee's table on this point is given on the opposite page.

For completely liquidated banks there was a higher percentage of recovery in banks in the larger towns and cities. This result is to be expected, as the smaller banks are in the smaller communities. The table showing this, also prepared by the Committee, is given below.

AVERAGE PERCENTAGE OF CLAIMS REALIZED BY UNSECURED DEPOSITORS IN  
1,255 COMPLETELY LIQUIDATED NATIONAL AND STATE BANKS, BY  
SIZE OF TOWN, 1921-30<sup>a</sup>  
(Dollar items are in thousands)

Population of Town	Number of Banks	Claims	Payments	Average Ratio of Payments to Claims (Per cent)
Under 1,000	785	\$72,654	\$35,609	49.0
1,000 to 5,000	342	72,004	37,450	52.0
5,000 to 10,000	40	13,210	7,083	53.6
10,000 to 25,000	37	24,032	16,270	67.7
25,000 and over	51	42,398	28,513	67.3
Total.....	1,255	\$224,298	\$124,925	55.7

<sup>a</sup> *Bank Suspensions in the United States*, pp. 101-03. National and state banks suspending during 1921-30 which had been completely liquidated at the time the schedules of information were prepared for the Committee during the latter half of 1930 and the first half of 1931, with the exception of 142 state banks for which information as to claims and payments is not available. Data are exclusive of offsets.

The data on page 90, also the Committee's, show that completely liquidated banks which closed during the latter part of the 1921-30 period, paid a higher percentage of depositors' claims than those which closed during the early part of the period.

A partial explanation for this is that only a few of the banks which failed toward the end of the period had been finally liquidated, and presumably these were in

**CLAIMS REALIZED BY UNSECURED DEPOSITORS IN COMPLETELY LIQUIDATED NATIONAL AND STATE BANKS, 1921-30<sup>a</sup>**  
(Dollar items are in thousands)

06

Year of Suspension	National Banks				State Banks			
	Number of Banks	Claims	Payments	Ratio of Payments to Claims <sup>b</sup> (Per cent)	Number of Banks	Claims	Payments <sup>c</sup>	Ratio of Payments to Claims (Per cent)
1921.....	25	\$ 9,297	\$ 3,262	35.1	128	\$31,687	\$19,107	60.3
1922.....	23	6,857	2,787	40.6	103	17,497	7,536	43.1
1923.....	54	11,874	4,265	35.9	154	22,025	10,869	49.3
1924.....	67	20,757	10,644	51.3	164	23,304	10,557	45.3
1925.....	45	10,582	6,194	58.5	123	21,794	10,985	50.4
1926.....	33	6,358	4,551	71.6	186	27,128	15,958	58.8
1927.....	11	1,168	712	61.0	90	8,348	5,677	68.0
1928.....	5	492	507	103.0	31	3,426	2,176	63.5
1929.....	2	218	226	103.7	9	570	532	93.3
1930.....	2	886	886	100.0	—	—	—	—
Total.....	267	\$68,489	\$34,034	49.7	988	\$155,809	\$83,397	53.5

<sup>a</sup> *Bank Suspensions in the United States*, p. 102. See note *a*, table on p. 89 for qualification of data.

<sup>b</sup> Including interest.

<sup>c</sup> Exclusive of payments from guaranty funds.

**BORROWINGS OF BANKS COMPLETELY LIQUIDATED, 1921-30<sup>a</sup>**  
(Dollar items are in thousands)

Year of Suspension	National Banks				State Banks			
	Number of Banks	Capital Funds <sup>b</sup>	Total Borrowings	Borrowings per \$100 Capital Funds	Number of Banks	Capital Funds <sup>b</sup>	Total Borrowings	Borrowings per \$100 Capital Funds
1921.....	25	\$ 1,730	\$ 4,384	253.4	128	\$ 7,542	\$11,553	153.2
1922.....	23	2,036	4,140	203.3	103	4,542	5,711	125.7
1923.....	54	2,918	6,144	210.6	154	5,071	6,270	123.6
1924.....	67	4,785	8,788	183.7	164	6,310	7,727	122.5
1925.....	45	2,760	3,432	124.3	123	5,419	4,661	86.0
1926.....	33	1,682	1,137	67.6	186	7,805	5,775	74.0
1927.....	11	360	360	100.0	90	2,536	1,447	57.1
1928.....	5	277	176	63.5	31	932	607	65.1
1929.....	2	141	57	40.4	9	210	85	40.5
1930.....	2	215	207	96.3	—	—	—	—
Total.....	267	\$16,904	\$28,825	170.5	988	\$40,367	\$43,836	108.6

<sup>a</sup> *Bank Suspensions in the United States*, p. 103. See note *a*, table on p. 89 for qualification of data.

<sup>b</sup> Capital stock, surplus, and undivided profits.



**DISPOSITION OF TOTAL COLLECTIONS IN 267 COMPLETELY LIQUIDATED  
NATIONAL BANKS, BY YEAR OF SUSPENSION, 1921-30<sup>a</sup>**  
(Dollar items are in thousands)

Year of Suspension	Number of Banks	Collections	Payments from Collections				Percentage of Payments from Collections			
			For Expenses of Liquidation	To Secured and Preferred Creditors <sup>b</sup> (Estimated)	To Unsecured Deposit Creditors <sup>c</sup>	To Shareholders	For Expenses of Liquidation	To Secured and Preferred Creditors	To Unsecured Deposit Creditors	To Shareholders
1921.....	25	\$ 8,291	\$ 786	\$ 4,243	\$ 3,262	—	9.5	51.2	39.3	—
1922.....	23	7,315	680	3,848	2,787	—	9.3	52.6	38.1	—
1923.....	54	11,081	1,097	5,716	4,265	\$ 3	9.9	51.6	38.5	—
1924.....	67	22,486	1,780	10,051	10,644	11	7.9	44.7	47.3	0.1
1925.....	45	10,893	940	3,759	6,194	—	8.6	34.5	56.9	—
1926.....	33	6,657	500	1,604	4,551	2	7.5	24.1	68.4	—
1927.....	11	1,416	113	579	712	12	8.0	40.9	50.3	0.8
1928.....	5	700	38	154	507	1	d	d	d	d
1929.....	2	333	10	97	226	—	d	d	d	d
1930.....	2	972	1	85	886	—	d	d	d	d
Total.....	267	\$70,144	\$5,945	\$30,136	\$34,034	\$29	8.5	43.0	48.5	—

<sup>a</sup> *Bank Suspensions in the United States*, p. 104.

<sup>b</sup> Payments to secured and preferred creditors estimated to be the difference between collections and other payments.

<sup>c</sup> Data are exclusive of offsets.

<sup>d</sup> The percentages are omitted because the figures for these few cases which were quickly liquidated are not representative of the collections, costs, and payments of all banks suspending during these three years.

better than average condition. Moreover, the banks which suspended in the earlier years of the period were heavy borrowers, as is shown in the table on page 91, and a considerable portion of their good assets had been pledged to secured creditors.

The same phenomenon—payment of a relatively large part of collections to secured and preferred creditors by heavy borrowing banks which closed in the early twenties—is shown in the table on page 92, which gives for completely liquidated national banks the disposition of total collections in expenses of liquidation, payments to unsecured creditors, to secured and preferred creditors, and to shareholders.

The great majority of banks which suspended during the period covered by the preceding tables were still in process of liquidation when the data regarding losses were compiled, and the final results are not known.<sup>9</sup> No adequate basis exists, therefore, for computing losses in these banks.

Statements are frequently made concerning the return to unsecured depositors in closed banks in various states. They are, however, nearly always estimates based upon no scientific study. Certainly the only really careful complete study made—that of the Reserve Committee—illustrates the extreme difficulty of arriving at any exact figure as to past recoveries or future possibilities. It would seem, however, from that investigation, that the commonly accepted figure of 60 per cent is rather high.

<sup>9</sup> During 1921-30 there were 6,703 bank suspensions. See p. 247.

## CHAPTER VIII

### LOSSES TO SHAREHOLDERS

The National Bank Act has provided from the first for double liability upon the holders of stock in national banks.<sup>1</sup> The Federal Reserve Act re-enacted this provision of the National Bank Act, and extended the liability to include those who transfer their shares within 60 days before the failure of a bank, if it is not satisfied by the transferee or holder. The present provision reads as follows:

The stockholders of every national banking association shall be held individually responsible for all contracts, debts, and engagements of such association, each to the amount of his stock therein, at the par value thereof in addition to the amount invested in such stock. The stockholders in any national banking association who shall have transferred their shares or registered the transfer thereof within 60 days next before the date of the failure of such association to meet its obligations, or with knowledge of such impending failure, shall be liable to the same extent as if they had made no such transfer, to the extent that the subsequent transferee fails to meet such liability; but this provision shall not be construed to affect in any way any recourse which such shareholders might otherwise have against those in whose names such shares are registered at the time of such failure.<sup>2</sup>

It is the duty of the receiver of a national bank to enforce this double liability.<sup>3</sup> The Comptroller is also empowered to assess stockholders to restore impaired capital,<sup>4</sup> and may authorize a reduction in capital to effect this restoration.<sup>5</sup>

<sup>1</sup> R.S., Sec. 5151; 13 Stat. L. 102.

<sup>2</sup> Federal Reserve Act, Sec. 23.

<sup>3</sup> 13 Stat. L. 114; 19 Stat. L. 63.

<sup>4</sup> R.S., Sec. 5205; 17 Stat. L. 603; 19 Stat. L. 64.

<sup>5</sup> Under Sec. 28, Federal Reserve Act. See *McCann v. Jeffersonville First National Bank*, 1887, 14 N.E. 251; 1892, 30 N.E. 893.

In 39 of the 48 states double liability of bank stockholders is provided for, and in one, Colorado, there is triple liability. Most of the state laws are similar in this respect to the National Bank Act. In 15 states<sup>6</sup> the double liability is imposed by the constitution and frequently amplified by statute.<sup>7</sup> In addition, a number of states provide, as does the National Bank Act, for assessments to restore impaired capital.<sup>8</sup>

Under most of the reorganization plans employed by the national and state officials, no attempt is made to collect on account of double liability. In lieu of it, the stockholders are usually called upon to make a new contribution to capital if they are financially able to do so. In a number of states no assessment can be levied unless the bank has been placed in liquidation. This fact held up Federal Reserve Board approval of the reorganization plan of the Union Trust Company of Baltimore. The Board insisted on a contribution from stockholders, which could not be levied under the Maryland law unless a receiver had been appointed. The institution finally reopened after \$500,000 in additional capital had been raised by the sale of capital notes.<sup>9</sup>

#### I. ENFORCEMENT OF DOUBLE LIABILITY

Resistance to enforcement of double liability has been marked from the beginning. In 1875 the Comptroller reported that "it is impossible to prevent delays in liquidating the affairs of insolvent banks when the stockholders

<sup>6</sup> Arizona, Illinois, Indiana, Iowa, Minnesota, Nebraska, New York, Ohio, Oregon, South Carolina, South Dakota, Texas, Utah, Washington and West Virginia.

<sup>7</sup> For example, Ore. Laws, 1933, Chap. 227, Sec. 20. For further discussion of state double liability see John M. Chapman, "Uneasy Lies the Head," *State Government*, November 1932, pp. 14-15; and *Harvard Business Review*, July 1932.

<sup>8</sup> For example, Del. Laws, Vol. 32, Chap. 103, Sec. 6 as amended.

<sup>9</sup> *New York Times*, Dec. 7, 1933.

of such institutions resist by litigation the enforcement of the personal liability clause of the National Bank Act.<sup>10</sup>

Prior to 1898 it was the policy of the Comptroller's office to estimate the amount that it would be necessary to assess against shareholders, and to make that assessment final. In 1898 there was an abrupt about-face in the system of regarding this first estimate as irrevocable, and, where necessary, additional assessments were levied.<sup>11</sup> It was not until 1930 that national bank receivers were authorized to compromise the individual liability of a shareholder.<sup>12</sup>

Resort to double liability assessments has brought only a small measure of relief to the depositors in closed banks. For all the 1,155 national bank receiverships terminated between 1865 and 1933, assessments against shareholders averaged 67.97 per cent of their holdings and the total collections from such assessments were 49.47 per cent of the amount assessed, making actual collections only 33.62 per cent of holdings. Collections from stock assessments amounted to \$41,370,673, which was less than 10 per cent of collections from assets, less than 10 per cent of dividends to creditors, and a little over 5 per cent of total assets.<sup>13</sup>

Not only have these assessments been of little benefit to depositors, but they have not been borne equally by shareholders in various classes of banks. According to former Comptroller Pole:

As a practical matter, the question of enforcement by the Comptroller of the Currency of this individual liability has been confined during the past 65 years almost entirely against shareholders in small country banks.<sup>14</sup>

<sup>10</sup> *Annual Report of the Comptroller of the Currency*, 1875, p. li.

<sup>11</sup> The same, 1898, p. xxxvi.

<sup>12</sup> Act of Feb. 25, 1930.

<sup>13</sup> *Annual Report of the Comptroller of the Currency*, 1933, pp. 33,

The experience of the states with double liability assessments has been similar. The Massachusetts Commission, in its 1932 report, stated that "in practice . . . the total amount realized from stockholders' suits is small, and also the burden of payment falls in most cases on the small stockholders instead of upon those whose control and management may well have been responsible for the failure of the bank. Thus the law fails to provide the protection for depositors which, on its face, the statute purports to give, and therefore the Commission, while making no present recommendations, believes that the double liability clause should have further study with a view to designing an adequate substitute."<sup>15</sup>

In actions to collect double liability more numerous legal difficulties are encountered by the state supervisors than by the Comptroller. Some supervisors have found it impossible to collect assessments levied against stockholders residing in other states. Superintendent Broderick of New York was recently balked in an attempt to collect \$436,840 from 560 stockholders of the Bank of United States who lived in New Jersey. Supreme Court Justice Parker ruled that the suit was not in conformity with the laws of New Jersey, and cited a decision of the Supreme Court of the United States which ruled that the state courts can decide whether such actions may be maintained.<sup>16</sup> He suggested, however, that the suit be re-framed and presented in a chancery court.<sup>17</sup> Superintendent Broderick appealed to the Court of Error and Appeals.

<sup>15</sup> 71 Cong., 2 sess., Hearings on H.R. 141 before House Committee on Banking and Currency, 1930, p. 16.

<sup>16</sup> *Report of the Massachusetts Special Commission on Revision of the Laws Relating to Trust Companies and Private Banks, and to the Liquidation of Banks*, H. rep. 1184, December 1932, p. 37.

<sup>17</sup> *Finney v. Guy*, 189 U.S. 335.

<sup>18</sup> *New York Times*, Jan. 31, 1934.

ascertained. Stockholders are able to divest themselves of property between the closing of the bank and the filing of the suit. This has led to recommendations for permitting assessment at the time of suspension, to be repaid, of course, should the assets of the bank prove adequate to meet all depositors' claims.<sup>21</sup>

Another obstacle to the collection of double liability which has hindered both federal and state authorities has been the bank holding company. Such organizations frequently have no assets other than bank shares. Therefore, when all the banks in such a group suspend there is no possibility of collecting liability assessments from the holding company. Whether or not the owners of holding company stock may be assessed has not as yet been definitely decided. It has been alleged that bank groups have been formed for the purpose of evading double liability. On the other hand, a few holding companies have provided in their articles of association that their own shareholders assume the liability.

Two large groups, the Guardian Detroit Union Group, Inc. and the Detroit Bankers Company, having failed, suit was filed by the Comptroller against their stockholders, to collect assessments for the benefit of the depositors in the parent banks, the Guardian National Bank of Commerce, and the First National Bank of Detroit. A federal court in Detroit handed down a decision on March 8, 1934 that the stockholders of the Detroit Bankers Company and the Guardian Detroit Union Group are liable for these assessments, amounting to 35 million dollars. It was held that the holders of the group stock were the "real, true and beneficial owners"

<sup>21</sup> See *Report of the Indiana Study Commission for Financial Institutions*, 1932, pp. 107-08.

of the bank stock, the holding companies acting only as trustees, and "devices" to shield stockholders from their assessment liability. The decision continued that inasmuch as the charters of the holding companies assumed the double liability of their unit banks, and the group stockholders had represented to the depositors of the banks in question that they would pay such assessments, said stockholders were estopped from denying the liability.

The decision continued that each of the Detroit Bankers shares represents 14 shares of First National stock and that each of the Guardian Group shares represents 0.06 shares of Guardian National stock, and that assessments should be paid on these bases. The decision also stated that a large number of stockholders would undoubtedly be the innocent victims of the judgment and that the receivers of the banks, in collecting the assessments, should exercise their powers charitably. The decision applied alike to former stockholders of the banks in question and to those in other banks who had exchanged their stock for the group shares. It also applied both to those who had brought action against the assessment and to those who had not. It was announced that appeal would be taken to the Circuit Court of Appeals at Cincinnati.<sup>22</sup> On April 9 judgments approved by this decision, totalling 7 million dollars, were signed by federal Judge Hayes against 500 stockholders of the two groups who had opposed the assessment.<sup>23</sup> Owners of

<sup>22</sup> *Barbour et al. v. Thomas et al.*, and *Deming et al. v. Schram et al.* (Mar. 8, 1934), U. S. District Court, Eastern District of Michigan. A similar decision was handed down on Mar. 21, 1934 by Federal District Judge Faris in St. Louis in the suit of Joseph F. Holland, receiver of the Vandeventer National Bank, against the Metropolitan Holding Company and directors who had transferred their stock to it. *American Banker*, Mar. 29, 1934.

<sup>23</sup> *American Banker*, Apr. 13, 1934.



shares held in voting trust have also been held liable.<sup>24</sup>

Some holding companies have made it their policy to own assets other than bank shares, in one case equalling in value their bank stock holdings, thus assuring double liability collection should all banks suspend. Moreover, two states, Wisconsin and Indiana, have provided by statute that stockholders in bank holding companies assume the double liability and those of Wisconsin require such corporations to deposit a guaranty with the State Treasurer.<sup>25</sup>

If some members of a group do not fail, the stock of the remaining solvent banks can, of course, be attached for an assessment against the holding company. In view of the foregoing, and because collection of assessments on a single holding company should be much easier than on a multitude of individual stockholders, depositors in banks owned by holding companies probably receive as much protection from double liability as do those in independent units.

## II. ESTIMATED LOSSES TO STOCKHOLDERS, 1921-32

The Federal Reserve Committee on Branch, Group, and Chain Banking made an investigation of losses to stockholders of suspended banks, and of assessments against and collections from them both prior to and after suspension.<sup>26</sup> It found that the stockholders of the 267 national banks which suspended and were completely liquidated from 1921 to 1930 lost practically all of their invested capital. After depositors had been paid,

<sup>24</sup> Decision of Judge McClellan, Federal District Court, Boston, *in re* assessment on the stock of the Federal National Bank. *American Banker*, Mar. 10, 1934.

<sup>25</sup> Wisconsin, Laws of 1929, Chap. 445; Indiana, Act of Mar. 2, 1931, Sec. 4.

<sup>26</sup> The following data are summarized from the Committee's *Bank Suspensions in the United States*, pp. 106-13.

only \$32,000 in cash and \$490,000 in uncollected assets were returned to the stockholders of a few institutions.

In addition, in the 927 national banks which suspended during this period, assessments amounting to over 22 million dollars, or 34 per cent of the capital stock, were collected prior to suspension, in an effort to forestall insolvency. Furthermore, directors had themselves voluntarily purchased a large amount of slow or worthless paper for the same purpose. The accompanying table presents assessments prior to suspension by geographical divisions.

**CAPITAL FUNDS AND ASSESSMENTS ON STOCKHOLDERS PRIOR TO SUSPENSION OF NATIONAL BANKS SUSPENDING DURING 1921-30\***  
(Dollar items are in thousands)

Region	Number of Banks	Capital Stock	Total Capital Funds	Reported Assessments before Suspension	Assessments per \$100 of Capital Stock
New England.....	4	\$ 400	\$ 758	\$ 116	\$29.0
Middle Atlantic.....	29	2,150	4,894	640	29.8
North Central.....	78	5,418	7,592	795	14.7
Southern Mountain..	25	6,335	10,201	2,451	38.7
Southeastern.....	110	11,770	18,041	5,689	48.3
Southwestern.....	155	10,409	12,973	3,337	32.1
Western Grain.....	346	17,895	22,644	6,493	36.3
Rocky Mountain....	142	8,900	11,721	2,322	26.1
Pacific Coast.....	38	3,750	4,540	1,040	27.7
United States.....	927	\$67,027	\$93,364	\$22,883	\$34.1

\* *Bank Suspensions in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, p. 107. It was assumed that most of these assessments were collected.

Assessments and collections after suspension were reported for the 267 completely liquidated national banks. Assessments were practically equal to capital stock, but collections were only \$6,056,000, or 46 per cent of assessments. The accompanying table gives this information by regions.

## LOSSES TO SHAREHOLDERS

103

ASSESSMENTS ON STOCKHOLDERS AFTER SUSPENSION AND COLLECTIONS  
THEREFROM IN COMPLETELY LIQUIDATED NATIONAL BANKS WHICH  
SUSPENDED DURING 1921-30\*

(Dollar items are in thousands)

Region	Num- ber of Banks	Capital Stock	Assess- ments after Suspend- ion	Collections from Assess- ments after Suspend- ion	Percent- age of Assess- ments Collected	Collections per \$100 of Capital Stock
New England.....	1	\$ 50	\$ 50	\$ 41	82.0	\$82.00
Middle Atlantic...	3	200	200	83	41.5	41.50
North Central.....	8	500	475	291	61.3	58.20
Southern Mountain	2	55	55	37	67.3	67.30
Southeastern.....	21	1,180	1,095	564	51.5	47.80
Southwestern.....	50	3,134	3,000	1,274	42.5	40.70
Western Grain.....	83	3,335	3,285	1,627	49.5	48.80
Rocky Mountain..	86	4,225	4,225	1,721	40.7	40.70
Pacific Coast.....	13	715	715	418	58.5	58.50
United States.....	267	\$13,394	\$13,100	\$6,056	46.2	\$45.20

\* *Bank Suspensions in the United States*, p. 108.

The statistical record of losses to stockholders of state banks is rather unsatisfactory. Of 1,130 such institutions which failed from 1921 to 1930 and were completely liquidated during the period, only 529 reported assessments after suspension and collections therefrom. These banks had capital of over 16 million dollars, and assessments were over 14 million. Collections were 43.8 per cent of assessments, and 37.4 per cent of capital. Inasmuch as several states do not have double liability provisions in their banking laws, the Committee estimated that for all state banks collections approximated 33 per cent of capital stock, which amounted to 260 million dollars for the 5,776 institutions closing from 1921 to 1930. Because a relatively large number of the liquidated banks which reported no assessments or collections to the Committee may really have had none, this estimate of 33 per cent may be considerably inflated. Possible inaccuracies

are further increased by the fact that no data were received on stock assessments for banks reopened and taken over. But while assessments in these cases were probably lower than for liquidated banks, collections were undoubtedly higher.

ESTIMATED LOSSES TO STOCKHOLDERS AS A RESULT OF NATIONAL AND STATE BANK SUSPENSIONS, 1921-31<sup>a</sup>  
(In thousands of dollars)

Item	National Banks	State Banks	National and State Banks
1921-30 SUSPENSIONS . . . . .	146,300	462,600	608,900
Capital funds of suspended banks	93,400	377,600	471,000
Collections from stockholders prior to suspension . . . . .	22,900	<sup>b</sup>	22,900 <sup>b</sup>
Collections from stockholders after suspension . . . . .	30,000	85,000	115,000
1931 SUSPENSIONS (Losses computed on same basis) . . . . .	108,500	281,300 <sup>b</sup>	389,800 <sup>b</sup>
TOTAL, 1921-31 . . . . .	254,800	743,900	998,700

<sup>a</sup> *Bank Suspensions in the United States*, p. 112.

<sup>b</sup> For state banks data regarding collections from stockholders prior to suspension are not available. In the case of a few states which appeared to report this information in full, the assessments prior to suspension averaged 30 or 35 per cent of capital stock. For national banks the assessments prior to suspension averaged 34 per cent of capital stock.

On the basis of these computations, the Committee estimated<sup>27</sup> total losses to stockholders from bank suspensions to be as shown in the accompanying table. It will be noted that no amount is included for assessments against state stockholders prior to suspension, an omission which should at least offset the possible over-estimate mentioned above attributable to the exclusion of banks reporting no assessments or collections.<sup>28</sup> The total of prac-

<sup>27</sup> It was assumed that the ratios found for the 267 banks that were completely liquidated could be applied to the other 660 national banks that failed during the period 1921-30.

<sup>28</sup> In addition, an unknown but large sum has been contributed voluntarily by stockholders in efforts to restore solvency without formal assess-

tically one billion dollars is approximately one-sixth of the capital funds of all banks at the beginning of the period. It does not include losses through assessments to restore capital in banks which did not suspend.

Conditions since 1931 have made it increasingly difficult to collect stock liability assessments. Several state banking officials have estimated that collections on the stock of banks failing in the past two years will not exceed 25 per cent of assessments. It is not practical, therefore, to attempt to apply the ratio shown above to banks which have failed since 1931, especially since the status of many closed institutions is still quite uncertain.

At any rate, it may safely be stated that the total loss from 1921 to the present is probably close to 1.5 billion dollars. This loss to stockholders has had consequences as serious as those occasioned by depositors losses. For many years bank stocks, in the larger institutions at least, were regarded as gilt-edged. Suddenly, their owners found themselves faced not only with the loss of their investments, but with that of an additional sum perhaps equal thereto. And in numerous cases the investor has been only vaguely aware, if not entirely ignorant, of the fact that his stock ownership entailed double liability.

### III. THE ABANDONMENT OF DOUBLE LIABILITY

The Banking Act of 1933 did away with the double liability on national bank stock issued after the date of its enactment.<sup>29</sup> While the added protection for deposi-

---

ments. Also, guaranties have been made that contingent losses will be covered by certain stockholders, and in many cases these guaranties have had to be met.

<sup>29</sup> 48 Stat. L. 189. It should be pointed out, however, that the Banking Act of 1933 did not repeal or alter Sec. 5205 of the Revised Statutes, which provides for assessments upon shareholders for the restoration of impaired capital, and, under certain circumstances, the sale of a shareholder's stock to pay the assessment.

tors implicit in deposit insurance may be looked upon as a partial justification for this action, the provision was in the bill before the insurance section was accepted, and probably resulted in part from the conviction that the returns were insufficient to warrant the expense of collection. It may also have been felt that in the numerous reorganizations taking place, new capital could be more readily secured if double liability were not attached to it. The existence of national bank stock both with and without double liability has raised several uncertainties and complications.<sup>30</sup>

Double liability on future issues of stock by non-national banks in the District of Columbia has also been removed.<sup>31</sup> This places these banks, which are under the supervision of the Comptroller, on a parity with national banks, and has enabled one of them to increase its capital in order to take over two closed institutions.<sup>32</sup>

The Governor of New Mexico issued an executive order on October 30, 1933, which purports to suspend the provisions of the banking law of that state for double liability on bank stock.<sup>33</sup> A bill under consideration in the Legislature of Mississippi removes double liability in that state, and adopts a required "earned surplus."<sup>34</sup>

During 1933 the Banking Board of New York passed a resolution recommending to the Legislature the repeal of double liability. It effectively presents the case for such action as follows:

WHEREAS, The Federal Banking Act of 1933 abolishes the double liability which has heretofore attached to national bank stocks, and

<sup>30</sup> See H. H. Preston, "Banking Act of 1933," *American Economic Review*, December 1933, p. 604.

<sup>31</sup> 73 Cong. 2 sess., Public No. 94.

<sup>32</sup> *Cong. Record*, Jan. 27, 1934, pp. 1493-94.

<sup>33</sup> *American Banker*, Nov. 9, 1933.

<sup>34</sup> The same, Feb. 19, 1934; Mar. 6, 1934; Mar. 27, 1934.

WHEREAS, Based on experience, this double liability has proved to be of little protection to depositors of state banks, and

WHEREAS, The double liability clause of the Constitution of the State of New York precludes the banks of this state from obtaining federal funds in the form of preferred stock, which would increase the protection to depositors in state institutions, and

WHEREAS, The protection of depositors can be much more effectually provided through legislation which might increase capital or surplus requirements or by the creation of other safeguards, rather than to depend upon the uncertain double liability of stockholders, now, therefore, be it

RESOLVED, That this Board urge the Governor and Legislature of this state to take immediate steps to bring about the repeal of the double liability clause of the New York State Constitution.<sup>85</sup>

A similar recommendation was made by the Joint Legislative Committee on Banks and Investment Trusts.<sup>86</sup> A constitutional amendment to carry out this recommendation passed the Legislature on April 12, 1934. It must be passed by the 1935 Legislature and the voters of the state to become effective. It seeks to repeal Section 7 of Article 8 of the Constitution. Such constitutional provisions in New York and other states will make it more difficult for them to rid themselves of double liability than for the national system and states in which the provision is merely statutory.

It is probable that within a few years double liability will practically have disappeared from banking laws throughout the country. As it now stands, states in which it is in force find their banks at a competitive disadvantage in comparison with national banks. The state

<sup>85</sup> New York, *Annual Report of the Superintendent of Banks*, Dec. 31, 1933, p. 12.

<sup>86</sup> *Report to the Legislature*, Mar. 14, 1934.

legislatures will seek to remove this discrepancy, as they on many occasions in the past have attempted to place their banks in competitive equality with national banks.

The preferred stock which has been issued in recent months by national banks throughout the country is exempt from double liability, and the RFC may purchase preferred stock in a state bank only if such stock is exempt.<sup>37</sup> State banks which are constitutionally prohibited from exempting such stock may sell capital notes or debentures to the RFC, or have individuals borrow from it, using preferred stock as security.<sup>38</sup>

The banks and trust companies of 26 states are permitted to issue preferred stock exempt from double liability, while the banks in the remaining 22 may not do so. In addition, banks in 30 states may issue capital notes and debentures, and in six states this power has not yet been determined.<sup>39</sup>

With double liability practically a dead letter, it has been recommended that banks be required to establish a reserve equal to capital in order to provide an absolute protection for depositors, rather than an uncertain one based on assessments against stockholders. The National Bank Act now provides that one-tenth of net profits must be carried to surplus until the latter amounts to 20 per cent of capital.<sup>40</sup> Many states have provisions requiring an even higher percentage, and 16 require that a surplus of from 10 to 100 per cent of capital be paid in at the organization of new banks.<sup>41</sup>

<sup>37</sup> National Emergency Banking Act; 48 Stat. L. 5 and 148.

<sup>38</sup> The same, 48 Stat. L. 6 and 21.

<sup>39</sup> For lists of these states, see pp. 190-91.

<sup>40</sup> R.S., Sec. 5199.

<sup>41</sup> *The Dual Banking System*, Federal Reserve Committee on Branch, Group, and Chain Banking, pp. 49-50. It should be noted that although this surplus is paid in with capital, no double liability attaches to it. Superintendent of Banks Kilburn of New York in his 1892 report objected to paid-in surplus on this ground.



While a required surplus fund provides some protection to depositors, additional reserves have been recommended to insure a larger capital investment in the business. A statute of Florida contains provisions to effect this which have been recommended for adoption elsewhere. It requires that 10 per cent of net profits be carried to surplus until the latter equals capital stock. Dividends not to exceed 10 per cent may be paid, and then half the remaining undivided profits must be invested in national and local government bonds, deposited with the State Treasurer, until these investments also equal capital. This fund may be used by the bank only upon the approval of the State Comptroller. Both the fund and the surplus must be restored if impaired.<sup>42</sup>

A like provision was enacted into law in Washington on February 27, 1933.<sup>43</sup> Stockholders of newly organized banks must deposit with the State Treasurer 100 per cent of the par value of their stock in the form of prescribed collateral, consisting of cash, United States bonds, or securities legal for trust funds. The collateral is held by the State Treasurer and the income therefrom paid to the bank or trust company as agent for its stockholders. Existing state banks must also protect the double liability by delivering securities to the State Treasurer equal to one-third of dividends thereafter declared, until such deposits amount to 100 per cent of capital stock, or until the aggregate of the amount so deposited, the capital, and the surplus equals 20 per cent of deposits. The latter provision has naturally proved advantageous to institutions with a large ratio of capital to deposits, which has been high enough in some cases to obviate any

<sup>42</sup> See Harwood B. Dolbeare, "Liability Insurance for Depositors," *American Bankers Association Journal*, December 1929, p. 564.

<sup>43</sup> Amendments to Wash. Laws, 1933, Chap. 42 (S. B. 132).

deposit of securities. This same act requires Washington banks to carry one-fourth of net earnings to surplus until the latter equals 25 per cent of capital, instead of one-tenth and 20 per cent as formerly.

In North Carolina every original stockholder in a new bank contributes a surplus of 50 per cent in lieu of additional liability, which is invested in North Carolina or United States obligations, and on which earnings accrue until it equals capital. Existing banks may set aside surplus of a like amount and relieve their stockholders of double liability. No bank which has not adopted this plan may establish branches.<sup>44</sup>

South Dakota requires that, in addition to double liability, depositors must be protected by an individual guaranty fund for each bank, built up by setting aside annually one-fourth of one per cent of deposits until the fund equals capital.<sup>45</sup> This law permits the substitution of membership in federal deposit insurance, however, and as long as it appears that assessments in the latter will be smaller than under the state plan, most South Dakota institutions will probably elect it.

Such laws insure a greater protection for depositors on the part of stockholders than does double liability. But they do not insure the stockholder against loss, by any means. And federal deposit insurance, now subscribed to by a vast majority of the nation's banks, will lessen the demand for additional protection to be furnished by the stockholder.

<sup>44</sup> Laws, 1933, Chap. 159. This last provision may prevent national banks from establishing branches in North Carolina, inasmuch as they may do so only under the same conditions as state banks, and national banks are not authorized to adopt this North Carolina liability provision.

<sup>45</sup> Spec. Sess. Laws, 1933, Chap. 1.

**PART III**  
**REORGANIZATION AND REOPENING OF**  
**CLOSED BANKS**

CHAPTER IX  
REORGANIZATION PROCEDURE  
PRIOR TO 1933

A bank with impaired capital may be restored to solvency either by a reduction in its deposit liability or by a contribution to its liquid assets in the form of an assessment upon shareholders. We have seen that from very early times it was possible for the deposit balances of savings banks in Maine and New Hampshire to be scaled down. Indeed, such a scaling down is implicit in the mutual organization of non-stock savings banks. And scaling down of depositor claims is what usually happens in a reorganization of any bank for the purpose of reopening and continuing in business.

Banks have been frequently reorganized before suspension, and by one device or another kept out of the list of insolvencies. In many states and in the national banking system there is provision for assessment of stockholders to restore impairments of capital. This has been resorted to in many cases. Suspension has been sometimes averted by merger or consolidation with another bank, or by the assumption of deposit liabilities by a neighboring institution which takes over assets at the same time. Even where a loss is incurred by the other bank, such an operation is sometimes thought to pay in the long run, by preventing the spread of distrust and the possible appearance of panic among depositors.

In the early days of the national banking system there seems to have been little encouragement for the reorganization and reopening of banks which had been placed

in the hands of receivers as insolvent. But in 1893 the policy was inaugurated of giving all banks which under ordinary circumstances (it will be recalled that 1893 was a depression year) would not have closed, and whose management had been honest, an opportunity to resume business. In his annual report for that year the Comptroller expressed the belief that results had justified the experiment.<sup>1</sup>

**I. STATISTICAL RECORD OF REORGANIZATIONS**

The accompanying table gives a year-by-year record of national banks restored to solvency after having been

**NATIONAL BANKS RESTORED TO SOLVENCY AFTER RECEIVERSHIP,  
1886-1932<sup>a</sup>**

Year of Receivership	Number	Capital	Year of Receivership	Number	Capital
1886.....	1	\$ 150,000	1916.....	1	\$ 50,000
1891.....	1	100,000	1917.....	1	50,000
1893.....	11	1,725,000	1920.....	1	50,000
1894.....	1	150,000	1921.....	8	450,000
1895.....	3	435,000	1922.....	4	350,000
1896.....	1	500,000	1923.....	5	195,000
1897.....	1	100,000	1924.....	8	375,000
1898.....	1	250,000	1925.....	5	205,000
1899.....	1	100,000	1926.....	2	50,000
1901.....	2	600,000	1927.....	5	235,000
1903.....	3	2,380,000	1928.....	1	25,000
1907.....	1	300,000	1929.....	6	370,000
1908.....	1	50,000	1930.....	8	2,050,000
1909.....	1	25,000	1931.....	25	3,220,000
1913.....	1	3,400,000	1932.....	16	2,430,000
1914.....	4	400,000			
1915.....	6	205,000	Total....	136	\$20,975,000

<sup>a</sup> See *Annual Report of the Comptroller of the Currency*, 1932, pp. 274-75; 1933, pp. 37-38.

placed in charge of receivers. This table indicates that the policy inaugurated in 1893 was not followed in the

<sup>1</sup> The Comptroller pointed out that in no instance had a bank been permitted to resume business on money which it had borrowed or for which as an association it had become liable. See *Annual Report of the Comptroller of the Currency*, 1893, p. 10.

**REORGANIZATION PROCEDURE**      115

years immediately following, and that even down to 1930 the reorganization of failed national banks was an exceptional procedure. In the table given below bank reopenings from 1921 to 1930 are compared with bank suspensions. Of the banks which suspended during these

**DISPOSITION OF SUSPENDED NATIONAL AND STATE BANKS, 1921-30\***

Year	Reopened or Merged	Placed in Liquidation	Disposition not Recorded	Total
<b>National Banks.....</b>	<b>154</b>	<b>773</b>	—	<b>927</b>
1921.....	22	30	—	52
1922.....	19	30	—	49
1923.....	21	69	—	90
1924.....	26	96	—	122
1925.....	18	100	—	118
1926.....	21	102	—	123
1927.....	10	81	—	91
1928.....	1	56	—	57
1929.....	5	59	—	64
1930.....	11	150	—	161
<b>State Banks.</b>	<b>1,183</b>	<b>4,414</b>	<b>179</b>	<b>5,776</b>
1921.....	128	247	34	409
1922.....	64	212	18	294
1923.....	91	389	53	533
1924.....	104	477	35	616
1925.....	76	370	15	461
1926.....	201	587	13	801
1927.....	110	429	6	545
1928.....	57	361	4	422
1929.....	124	460	—	584
1930.....	248	882	1	1,131
<b>NATIONAL AND STATE BANKS.</b>	<b>1,337</b>	<b>5,187</b>	<b>179</b>	<b>6,703</b>

\* *Bank Suspensions in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, p. 82.

years, disregarding those whose disposition is unknown, 20.5 per cent were reopened either independently or after merger with other banks. Of the national banks which failed 16.6 per cent were reopened; of the state banks, 21.0 per cent. Reopenings of closed national banks

were relatively few after 1926, but the states continued to make considerable use of this method of handling bank suspensions throughout the period. The ratio of reopenings to suspensions was highest in the North Central states, where 194 out of 631 suspended banks were reopened.

Loans and investments of reopened banks totalled \$533,566,000, or 19.4 per cent of those of all closed banks whose disposition is known. Apparently reopenings were evenly distributed among the various sizes of closed banks, for this percentage is close to that of the number of closed banks reopened. Reopenings in the North Central states involved 37.6 per cent of the loans and investments of closed banks in those states, while reopenings in the Middle Atlantic states involved but 8.6 per cent of the total loans and investments of the suspended banks in the group.<sup>2</sup>

Federal Reserve Board figures shows that during 1931 and 1932 there were 566 reopenings, involving deposits of \$434,381,000. During these two years reopenings constituted 14.9 per cent of suspensions. The deposits of reopened banks were 16.0 per cent of the deposits in all banks that closed. There were 847 failures and 83 reopenings among member banks, and 2,944 failures and 483 reopenings among non-members. In the first two months of 1933, 389 banks with deposits of \$207,809,000 suspended; 41 banks having deposits of \$29,431,000 reopened.<sup>3</sup>

<sup>2</sup> *Bank Suspensions in the United States*, pp. 81-88.

<sup>3</sup> *Federal Reserve Bulletin*, March 1933, p. 144. Data for the depression years do not include banks closed temporarily under special or moratoria holidays declared by civil authorities.

II. DEVELOPMENT OF REORGANIZATION PROCEDURE:  
NATIONAL BANKS

National bank reorganizations usually involved a mere restoration of impaired capital. No legal sanction existed for any reduction of depositors' claims, hence this procedure could be employed only on a purely voluntary basis. The National Bank Act permitted losses to be written off against capital so long as the latter was not reduced below the legal minimum, if the Comptroller and the stockholders consented.<sup>4</sup> In addition, assessments could be levied against stockholders to restore impaired capital, and they were given the option of paying such levy or going into voluntary liquidation.<sup>5</sup> These methods were obviously of no avail when the losses had completely destroyed capital and eaten into deposits.<sup>6</sup>

National banks in a weakened condition were also allowed to transfer their assets and deposit liabilities to other institutions, with the approval of the Comptroller and the stockholders of both banks.<sup>7</sup> Dissenting stockholders could exact cash payment for their shares. Such mergers, important among state as well as national banks, were very numerous before the bank holiday.<sup>8</sup> Finally, the Comptroller's power to effect a sale of the assets of banks placed in receivership<sup>9</sup> led to the use of the Spokane Plan, which was employed frequently after the bank holiday.<sup>10</sup>

<sup>4</sup> 38 Stat. L. 274.

<sup>5</sup> 19 Stat. L. 64.

<sup>6</sup> But successive assessments at different times have been levied, in one case amounting to 185 per cent of capital. See *City National Bank of Huron v. Fuller*, 52 Fed. (2d) 870 and 872.

<sup>7</sup> 40 Stat. L. 1043; amended by 44 Stat. L. 1225.

<sup>8</sup> See J. M. Chapman, *Concentration of Banking*, especially pp. 86-87.

<sup>9</sup> 39 Stat. L. 121.

<sup>10</sup> See pp. 70 ff.



III. DEVELOPMENT OF REORGANIZATION PROCEDURE:  
STATE BANKS

In general, the reopening of state banks was not accomplished under detailed reorganization statutes. Often, it was on a purely voluntary basis, the stockholders or directors contributing funds to restore capital. In Maryland a mutual savings institution was reopened in 1913 by means of a contribution from its incorporators,<sup>11</sup> and in 1920 the directors of the Stephenville Bank kept it from liquidation by restoring its capital.<sup>12</sup>

During the year ending February 1, 1932 the Maryland Commissioner reopened seven banks of the 15 closed, under essentially the same plan. Stockholders either made a cash contribution, or surrendered a part of their stock to be resold. Depositors waived a proportion of their deposits, thereby establishing what was termed a guaranty fund, or a reserve for contingencies. Liabilities were thus reduced to the amount of sound assets. Withdrawals were restricted on the remaining deposits which were not waived.<sup>13</sup>

In Michigan, several state banks were reopened, without any specific legislation, under plans agreed to by depositors. When 95 per cent of the depositors and creditors had agreed to a plan, and it had been approved by the court, the bank was reopened. The courts, under their broad discretionary powers in chancery, recognized the practically unanimous consent of depositors.

Encouraged by the success of this plan, and in order not only to secure for it the sanction of the Legislature but to get around certain difficulties, especially the necessity for virtually unanimous agreement, its sponsors secured the enactment of a so-called "Custodian bill" at

<sup>11</sup> *Report of the Bank Commissioner, 1913, p. 5.*

<sup>12</sup> *The same, 1920, p. 9.*

<sup>13</sup> *The same, 1932, pp. 7-13.*

a special session of the Michigan Legislature in 1932.<sup>14</sup> Commissioner Reichert, in explaining the plan of operation, said:

We have felt that whenever an institution, finding itself in difficulties, could make its own adjustments by and with the cooperation of a depositors' committee, a custodian being appointed from their own ranks, it was a much more feasible operation because they were working out their own problem and having a personal interest in the case. The custodian is appointed upon application by the Commissioner in a court of competent jurisdiction in the same manner as a receiver is appointed. The powers granted to him by the court are similar in character to those granted to a receiver, except that his principal purpose is reorganization and not liquidation, the distribution of assets being left to the receiver. If the institution finally has to go into liquidation, the custodian must be discharged and a receiver appointed so that assets may be distributed in the form of dividends to the creditors. The fact that an institution goes into receivership does not preclude it from reorganizing if it later develops that reorganization is possible.<sup>15</sup>

The custodian is the obvious forerunner of the present conservator. The Michigan Custodian bill of 1932 required consent of depositors representing 85 per cent of the total deposit liability. Objecting depositors and creditors were not bound by the agreement. Court approval of the plan was necessary. Political subdivisions of the state were authorized to become parties to the reorganization contract with respect to deposits of public moneys.

A trust fund was created by setting aside the doubtful assets of the bank, and deposit liability was reduced by a proportionate amount, the trust fund being administered for the benefit of the old depositors. The period for its liquidation was usually set at five years. The right

<sup>14</sup> Public No. 8, 1932.

<sup>15</sup> *Proceedings of the 31st Annual Convention of the National Association of Supervisors of State Banks*, p. 74.

of substitution of assets in the trust fund for those taken over by the reorganized bank was a part of the agreement. All earnings during the five-year period were allocated to the trust fund. Usually, no interest on old deposits was to be paid for two years.

The plan provided for the re-establishment of capital by voluntary action on the part of the stockholders. If the capital was not voluntarily contributed, the double liability on stockholders could be enforced. That was done only infrequently. Stockholders were permitted to use their deposits as subscriptions to new stock.

A second measure passed at the 1932 special session in Michigan authorized settlements with creditors by direct distribution of assets instead of reducing the assets to cash.

New York had no reorganization statute until 1933, but in this state, too, voluntary agreements were recognized which enabled suspended banks to reopen. During 1932 four closed institutions made available to depositors in this manner from 50 to 75 per cent of their balances. In return for their waiver of the remainder they were made beneficiaries of any realization from assets which were charged off. The stock was placed in escrow, dividends thereon to go also to depositors.<sup>16</sup> These reorganizations made deposits of over 12 million dollars immediately available.<sup>17</sup> Moreover, a method similar to one of the present widely employed reorganization plans released over 1.5 million dollars to the depositors in three up-state banks. This was effected by the organization of a new bank, the Medina Trust Company, which purchased part of the assets of these institutions.<sup>18</sup>

<sup>16</sup> *Report of Superintendent of Banks for 1932*, p. 13.

<sup>17</sup> The same, pp. 40-44.

<sup>18</sup> The same, p. 14.

Before the bank holiday there were several state statutes which authorized or facilitated reorganization.<sup>19</sup> In most states stockholders were permitted to contribute funds to avoid suspension and a double liability levy, even after the bank had been closed by the supervisor.<sup>20</sup> In many states, as in the national system, losses could be written off against capital, usually with the consent of the owners of two-thirds of the stock.<sup>21</sup> But capital could not be reduced below the legal minimum, and losses were usually so great that the small write-down permitted by this method was of no avail.

Assessments could be levied on stockholders, who in some states were given the option of paying or liquidating the bank.<sup>22</sup> In others, if the directors approved such action, it was made binding on stockholders. Also, the authorities in some cases had power to require such assessments to be paid.<sup>23</sup> The utility of this means of restoring capital was reduced by the fact that assessments were limited to the par value of stock. Furthermore, no restoration of capital can be adequate when the impairment has completely obliterated capital and extended into deposits.

Other plans involved mergers between institutions in danger of failing and stronger banks. In such a case the assets and deposit liabilities of the weak bank were transferred to the other institution, usually upon the approval of the supervisor and two-thirds of the stockholders of both banks.<sup>24</sup> If any equity remained to the stockholder

<sup>19</sup> The following discussion is largely summarized from *Columbia Law Review*, December 1932, pp. 1393-99, 1404-10.

<sup>20</sup> For example, see Colo. Ann. Stat. (Mills), 1930, Sec. 3814.

<sup>21</sup> For example, see Iowa Code, 1931, Sec. 9264.

<sup>22</sup> For example, see Ga. Code Ann. (Michie Supp.), 1926, Sec. 2267(d).

<sup>23</sup> For example, see Iowa Code, 1931, Secs. 9246-49.

<sup>24</sup> For example, see Wash. Laws, 1931, Secs. 2 and 3, p. 380.

in the absorbed bank, he received shares in the continuing institution, at an agreed ratio. Dissenting stockholders could require payment in cash.<sup>25</sup>

In some cases if a bank had already closed, the supervisor had the power to sell its assets for cash.<sup>26</sup> These plans were similar to the Spokane Plan which was widely used after the bank holiday.<sup>27</sup> Where the purchasing bank took over only a part of the assets, it assumed only an equal amount of liabilities. Remaining assets were then often liquidated by trustees who issued certificates of beneficial interest to depositors. In some states this procedure was specifically provided for by law.<sup>28</sup>

One of the difficulties early encountered in reorganization procedure was that plans could be easily held up by the objections of a few dissenting creditors. To obviate this, the legislatures of twelve states enacted laws enabling a certain proportion of creditors to petition for a reorganization involving restoration of capital and decrease of deposits, which was binding on all if approved by the supervisor and court.<sup>29</sup> In most of these, the assent of 75 per cent or more of depositors or unsecured creditors was required. In Nevada, when it appeared that liquidation would pay 70 per cent or less to depositors, on the petition of the Attorney-General a new bank could be organized, depositors receiving its stock in lieu of their deposits.<sup>30</sup> In South Carolina, after a plan had been ap-

<sup>25</sup> For example, see N.Y. Banking Law, 1916, Sec. 496.

<sup>26</sup> For example, see Iowa Code, 1931, Sec. 9239 (a-1).

<sup>27</sup> See pp. 70 ff.

<sup>28</sup> For example, see Del. Laws, 1931, Sec. 18B, p. 480; Pa. Stat. Ann. (Rudon Supp.), 1931, Sec. 28.

<sup>29</sup> These states were Florida, Iowa, Kentucky, Michigan, Minnesota, Nebraska, Nevada, North Dakota, Pennsylvania, South Carolina, South Dakota, and Wisconsin. For example, see Iowa Code, 1931, Secs. 9239 (a-1) to 9239 (a-6).

<sup>30</sup> Compiled Laws (Hillyer), 1929, Sec. 793.

proved by two-thirds of a quorum of 50 per cent or more of the creditors and stockholders, claims could be reduced, and/or postponed, and/or paid on installments.<sup>31</sup> In Kentucky the consent of the owners of 75 per cent of all deposits over \$25 was required.<sup>32</sup>

Secured creditors were not affected by reorganizations under such laws. Usually, slow and doubtful assets were taken out of the bank and segregated for liquidation. One plan used in Florida, for instance, provided that 5 per cent of deposits were payable on demand, 55 per cent were represented by time certificates payable 42 months after reopening, and the remainder were exchanged for certificates of interest in segregated assets.

Most of the other 36 states provided generally that closed banks might reopen on such conditions as were approved by court. Literally interpreted, such provisions would have allowed almost any sort of reorganization with this approval, but such general language was probably not sufficient authorization to permit the binding of dissenting creditors.

<sup>31</sup> Acts, 1932, Art. 649, p. 1183.

<sup>32</sup> Acts, 1932, Chap. 19, Sec. 2, p. 116.

CHAPTER X  
REORGANIZATION AFTER THE  
BANK HOLIDAY

The major issue which confronts the supervising authorities is whether to liquidate, to convert the assets into cash and distribute the proceeds among creditors and possibly stockholders, to strengthen the capital structure of the bank and reopen it, or to secure a merger with a stronger bank. Until recently, as we have seen, the usual practice when a bank failed was to liquidate it, but during the last three years, with an extraordinarily high rate of failure, there has been an increase of interest in reorganization. Primarily, of course, the responsibility for the decision must rest with important depositors and stockholders. The receiver cannot effect a reorganization without the co-operation of those whose property is at stake. Yet much can be done by bank authorities to encourage and facilitate reorganization, and the increase of reorganizations in recent years is attributable in large part to governmental policy.

The holiday gave the banking authorities of the country, state and national, an unparalleled opportunity to clean up the whole banking situation. Up to that time they were under constant restraint lest the closure or forced reorganization of conspicuous banks might precipitate a general run. But once all the banks were closed, it was possible to make their reopening conditional on evidence of ability to meet their obligations.

The procedure was to classify the banks in three great groups: those that could safely be reopened as soon as

the panic subsided and the necessary checkup could be made; those that could be reopened only after an increase of assets or a decrease of liabilities; and those that could not be reopened at all. In Chapter I we have shown the number of banks of different classes that was licensed to reopen immediately after the holiday, and the number that has been reopened since.

There are no figures on the actual number of reorganizations, but it may safely be assumed that nearly all banks which were not reopened by April 12 but which have since reopened were required to go through some sort of reorganization.<sup>1</sup> In addition, many of the banks which were reopened on a fully licensed basis immediately after the bank holiday had to go through some sort of reorganization later. At least their capital structure was reorganized and strengthened by the sale of preferred stock, capital notes, or debentures, the Reconstruction Finance Corporation being, in most instances, the purchaser. Some of these reorganizations were necessary to enable the banks to qualify for membership in the Federal Deposit Insurance Corporation.

Faced with the necessity of mass reorganization following the bank holiday of 1933, federal and state banking officials<sup>2</sup> have made use of two general plans for reopening unlicensed banks. These are known as the Straight Rehabilitation Plan and the Waiver and Sale

<sup>1</sup> Compare pp. 45-48, 140-41, and Appendix C.

<sup>2</sup> In the case of national banks, the agencies concerned are the Comptroller of the Currency, the Federal Reserve Board, and the regional Reserve Bank of the district. For state member banks, reorganization plans have to be approved by the State Supervisor of Banks; by the Federal Reserve Bank of the district, and the Federal Reserve Board at Washington. In the case of non-member banks, unless the reorganization involves admission to the Reserve system, control rests with the State Bank Supervisor. In addition the RFC has a check on all reorganization plans, state or national, in which a loan or a stock subscription is involved.



Plan. Some other plans also have been used in state bank reorganization in certain states.

#### I. THE STRAIGHT REHABILITATION PLAN

The first of the plans used by the Comptroller of the Currency in the reorganization of national banks is known as the Straight Rehabilitation Plan. Under it only one bank is involved. No new institution is chartered or organized, and there is no sale or transfer of assets to another bank, either existing or newly organized. It is a simple reorganization of an existing corporation.

The procedure under which this plan of reorganization takes place is outlined and authorized in Section 207 of the Bank Conservation Act, enacted March 9, 1933, which reads in part as follows:

In any reorganization of any bank under a plan of a kind which, under existing law, requires the consent, as the case may be, (a) of depositors and other creditors or (b) of stockholders or (c) of both depositors and other creditors and stockholders, such reorganization shall become effective only (1) when the Comptroller of the Currency shall be satisfied that the plan of reorganization is fair and equitable as to all depositors, other creditors and stockholders and is in the public interest and shall have approved the plan subject to such conditions, restrictions and limitations as he may prescribe and (2) when, after reasonable notice of such reorganization, as the case may require, (A) depositors and other creditors of such bank representing at least 75 per cent in amount of its total deposits and other liabilities as shown by the books of the bank or (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the bank or (C) both depositors and other creditors representing at least 75 per cent in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the bank, shall have consented in writing to the plan of reorganization.<sup>3</sup>

<sup>3</sup> 48 Stat. L. 3.

The statute specifically provides also that "in any reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such bank, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented."

Upon the formation of a plan, depositors and stockholders are given notice of its details, and are advised that it will be put into effect "at the expiration of 15 days from this date or as soon thereafter as the requisite consent of depositors and other creditors, and of stockholders shall have been obtained, and all other necessary steps shall have been completed." The agreement is made binding for either a reorganization under the existing charter or for the opening of a new bank under a new charter with either the old name or a new one.

Before putting the plan into operation the Comptroller determines that a certain dollar amount of the book value of the assets of the bank cannot be approved for inclusion in the current assets of a new or reorganized national bank.<sup>4</sup> The capital, surplus, and undivided profits, as shown by the balance sheet, are first applied to write off these unacceptable assets. To eliminate the remaining unacceptable assets, the depositors and other creditors are asked to waive a percentage of the amounts of their respective net unsecured claims. When the bank is reopened the balance of proved claims is made available to depositors and other creditors without restriction.

<sup>4</sup> Bonds taken over by the reorganized bank must be valued as of the date of take-over. If this differs from the value as of the last report of examination or as set up in the plan, the necessary adjustment must be made.

The capital of the bank has now been wiped out. The stockholders have no equity remaining. But the depositors have voluntarily "waived the bank to solvency." That is, they have surrendered a sufficiently large portion of their claims against the bank to enable it to balance their remaining claims with good assets. Since there is no longer insolvency, there is no basis for an assessment of double liability against shareholders. The stockholders, however, are required to surrender their shares, which are resold to them, or to others. This is in effect a voluntary assessment to restore the impaired capital.

The unacceptable assets which are eliminated under the waiver agreement are transferred to trustees, who liquidate them for the benefit of the waiving depositors and other creditors. Certificates are issued to the creditors evidencing their respective rights to participate in the proceeds of such liquidation. On interest bearing claims, interest is computed to the date when the bank was suspended or ceased to do a banking business, but interest does not accrue between the date of suspension and that of resumption of normal business.

Depositors and other creditors, in agreeing to waive a percentage of their claims, agree that for a period of time the bank shall have the right to exchange any of the loans and discounts retained at the time of reopening for any assets in the hands of the trustees (to whom unacceptable assets were transferred), or for the proceeds of any such trustee assets. They agree, moreover, that the bank shall have the right to be reimbursed by the trustees for "any unknown or any unlisted liability or preferred claim not listed as such among the liabilities of the bank at the time of reorganization which may be established against the bank and be or become payable by it." During this substitution period, no distribution to de-

positors and other creditors may be made from the proceeds of liquidation.

It is provided in the agreement that, in the event that the trustee assets yield a surplus above the amount necessary to repay in full the amount waived, with interest, such surplus shall be held by the trustees for the shareholders of the bank. The trustees make no charge for their services, but may deduct from the proceeds of liquidation the necessary costs of collection. Sometimes the plan includes a provision for a subscription by depositors to the common stock of the reorganized bank. In such cases, in addition to waiving entirely a percentage of their deposits, the depositors agree to convert an additional percentage into common stock, but such a conversion is voluntary and is not forced on non-assenting depositors. When the reorganization plan results in acquisition by the reorganized institution of loans which will be excessive under the new capital structure, reduction must be accomplished within six months.

This plan is frequently looked upon as more favorable to stockholders than to depositors. This is because stockholders do not have double liability assessed against them. Since the institution is "waived to solvency," there is no occasion for such assessment. However, unless a new bank is organized, the repurchased stock has double liability attached for future engagements and losses to depositors.

## II. THE WAIVER AND SALE PLAN

A second plan, much used by the Comptroller, is known as the Waiver and Sale to New Bank Plan. This plan involves a waiver by depositors of a percentage of their claims, restoring the bank to bare solvency; the voluntary liquidation of the old bank; and the sale of its

acceptable assets to a new institution created for the purpose.

As in the case of the Straight Rehabilitation Plan, it is first ascertained what amount of the assets cannot be approved by the Comptroller for inclusion in the current assets of the new or reorganized bank. Eliminations of slow, doubtful, and uncollectible loans; of depreciation on bonds otherwise acceptable; of depreciated bonds, totally unacceptable; of depreciation on banking house, furniture, and fixtures, or "other real estate"; and of miscellaneous items, are agreed upon. Against these eliminations are first applied the capital, surplus, and undivided profits of the old bank. To absorb the remainder, the depositors are asked to waive to the bank a percentage of their claims. If depositors and other creditors representing at least 75 per cent in amount of the bank's total net unsecured liabilities, as shown by its books, give written consent to such waiver, the action is binding upon all unsecured creditors and depositors, under Section 207 of the Bank Conservation Act.<sup>5</sup> The unacceptable assets which are eliminated are transferred to trustees, who hold and liquidate them for the benefit of waiving depositors and other creditors as their interests may be evidenced by participation certificates given to them.

A new bank is organized, the capital stock of which, under the provision of the Banking Act of 1933, carries no double liability. By action of two-thirds of its shareholders, the old bank agrees to sell acceptable assets in accordance with the terms of the reorganization plan and agreement to the new bank, and to go into voluntary liquidation. The new bank assumes all of the liabilities of the old bank (except liability to shareholders as such), after giving effect to the waivers of unsecured depositors

<sup>5</sup> See p. 126.

and creditors. Depositors' balances in the new bank are subject to withdrawal without restriction. The same rule as to payment of interest applies as under the waiver and stock surrender plan.

Ordinarily, when a national bank is in voluntary liquidation, the individual liability of the shareholders can be enforced by any creditor through a bill in equity in the nature of a creditor's bill. Here that cannot be done, since all creditors are bound by the reorganization agreement.

The waiver executed by the depositor follows the same general terms as the waiver in the plan for rehabilitation of an existing institution. The same stipulations are made with respect to the right of substitution of assets for an agreed period of time, with respect to unknown and unlisted liabilities and preferred claims not listed as such, and with respect to distribution of proceeds of liquidation by trustees.

The intent of the plan is that the newly organized bank shall be sound and clean in every particular, meeting "new bank" requirements, and that in every relationship between the new bank and the old, the advantage shall be with the former. This intent is well evidenced by the following stipulation:

Whenever any item in the trustee assets shall consist of a part of a loan or loans, the other portion of which has been taken over and is carried in the current assets of the new or rehabilitated bank as "acceptable," the right of the trustees to participate in any of the proceeds of such loan, except current interest paid as such, on their portion thereof, shall be junior to the right of the new or rehabilitated bank and the new or rehabilitated bank shall be entitled to apply all monies received thereon to the reduction of its claim therein, and when its claim or rights on account of such loan or loans shall have been satisfied in full, it shall then deliver the note or notes evidencing the remaining

balance of such loan or loans, together with any collateral remaining as security therefor, to the said trustees.

In September 1933, in response to questions submitted by the *New York World-Telegram*, the Comptroller explained, as follows, the differences between the Spokane Plan, described in Chapter V, and the Waiver Plan.

**QUESTION:** What is the advantage of the Waiver Plan over the Spokane Plan? Why should the stockholders be relieved of their double liability as they are in the former, since there is no receiver and no insolvency?

**ANSWER:** The Spokane Plan is ordinarily used when the condition of the bank is such that reorganization is not feasible, in which event the acceptable assets are sold either to an existing bank or to one organized for the purpose of taking over such assets. The depositors are paid a dividend representing the proceeds from the purchase price of the assets so sold; and the balance of the assets are retained by the conservator or receiver for subsequent liquidation, with resulting future dividends from the proceeds of such liquidation and from the proceeds of such stock assessment as may be levied.

The Waiver Plan is ordinarily utilized where the condition of the bank is such that it can be rehabilitated or reorganized, either under its own charter or under a new charter taken out for that purpose. The Waiver Plan restores the bank to *solvency*, and consequently there is no basis for an assessment on the ground of *insolvency*. While it is true that under the Waiver Plan the stockholders are relieved of an assessment, nevertheless the execution of such waivers is *entirely voluntary* on the part of the depositors and creditors, and, under Section 207 of the Emergency Banking Act of March 9, 1933, a Waiver Plan cannot become effective until at least 75 per cent in amount of the depositors and creditors have expressly indicated their desire to adopt the plan.

Notwithstanding the fact that the required percentage of depositors and creditors may have executed waivers, it has been the general policy of this office not to approve such plans unless the stockholders have made substantial voluntary contributions to the assets of the bank equal to the amount estimated to be

recovered from them in the event of an assessment, or unless it be found that the recovery from assessment would be so negligible, by reason of the financial condition of the shareholders, that it would not constitute a substantial factor for consideration. Frequently the lack of assessment is compensated for by the subscription by the old stockholders to capital for a new bank to take over the affairs of the old bank, it appearing in many such instances that the stockholders are not capable both of paying the capital for a new bank and of paying an assessment in the old bank, in which event the organization of a new bank may appear to be of relatively greater importance by reason of the lack of banking facilities in the community, and also because of the fact that the organization of a new bank with new capital may make possible the immediate release of dividends to the depositors and creditors of the old bank incident to the purchase of the assets of the old bank by the new bank.

**QUESTION:** Does the Waiver Plan still preserve the right to hold the directors and officers responsible for mismanagement, etc. or does the depositors' waiver relieve them?

**ANSWER:** The Waiver Plan does *not* waive the right of the depositors and creditors to hold the directors and officers responsible for mismanagement. If the directors and officers have been guilty of mismanagement or other conduct resulting in dissipation or loss of the assets of the bank, the cause of action therefrom resulting constitutes an asset which may be reduced to judgment for the benefit of those who may have been damaged.\*

In a very large number of cases depositors apparently agreed to waiver plans without realizing that they were waiving their claim to have the stockholders assessed under the double liability clause. The effect of the waivers was to restore the bank to solvency and thus remove the basis for assessment. In view of the fact that vast numbers of depositors are ill informed as to such technicalities, and in view of the further fact that plans were binding upon dissenting minorities, it would seem that special

\* Comptroller of the Currency, *Press Release*, Sept. 11, 1933.



precautions should have been taken to insure a real meeting of the minds of all concerned with regard to the effect of the waiver plans. In many cases the opposite policy seems to have been pursued. The restoration of the banks to solvency was deemed the paramount consideration, rather than a scrupulous protection of the rights of depositors. This situation was probably aggravated by the fact that in many communities the depositors who dominated the depositors' committees were also the larger stockholders.

### III. STATE REORGANIZATION PLANS

Legislation was enacted in a number of states—a series of banking dictatorship laws—authorizing the state banking supervisor to permit banks to continue operations or to operate them himself under virtually any conditions he might see fit. Some of these statutes merely provided for bank reorganization without receivership by the use of such devices as agreements by depositors to waive a portion of their deposits for a period of years. It will be remembered that many of these depositor waivers had been arranged in several states without warrant of law in connection with mayors' moratoria.

These state statutes, in general, placed their respective banking systems, or at least the weaker members thereof, under much closer control and supervision of the banking departments. Banking department officials were authorized to take practically complete charge of institutions in danger of collapse. After preliminary investigation of the affairs of such banks, they could be reorganized, with depositors waiving a part of their claims; they could be placed in receivership and liquidated; or they could continue to operate with or without closer supervision by supervising authorities, and with or without

restriction on deposit withdrawals. Most of these laws provided that they should be in effect for either specified periods of time, or for the "duration of the emergency." It was not contemplated that the increased supervision be made a permanent feature of the banking codes.

The actual reorganization of state banks closely paralleled that of national banks and drew upon pre-holiday experience. In general, banks were allowed to write off or segregate all except their sound and relatively liquid assets. Capital thus impaired was restored by the sale of new stock to the public or the RFC, and an adequate ratio of capital to deposits was established. Deposits were then scaled down in accordance with the write-off of assets. Unacceptable assets were to be liquidated separately for the benefit of depositors, in several states by separately organized liquidating institutions. Reorganized banks were subjected to particularly close supervision.

Stockholders were usually called upon to make as substantial a contribution to the recapitalization as possible. In some states they were permitted to retain ownership of the bank, but were barred from participating in earnings or payments arising from future liquidation until deposits had been paid off in full.

In the following sections we describe briefly the methods of reorganization which were used in New York and in Michigan. In Appendix D we present a more detailed account of the reorganization experience of the state of Washington, prepared by Professor Howard H. Preston. Most of the procedures used elsewhere are very similar to one or another of these.<sup>7</sup>

*Reorganization in New York.* On March 2, 1933, in the face of numerous bank holidays in other states, the

<sup>7</sup> Additional material is on file at The Brookings Institution and available for use by research workers.

New York Banking Board authorized the Superintendent of Banks to limit the withdrawal of deposits to an amount equal to the proportion that liquid assets bore to total assets of any bank. This action was taken under Section 10(b) of the Banking Law, which provided for safeguarding the interests of depositors and stockholders in times of emergency.

On March 6 the Assembly passed an act which provided that the Banking Board should have the power to suspend any provision of the Banking Law and to make rules and regulations which might be inconsistent with the law in order to safeguard depositors and stockholders.<sup>8</sup> On March 11 the Board adopted a resolution providing for the establishment of segregated trust deposits.<sup>9</sup>

At a later date the Assembly amended Section 61 of the Banking Law to provide in detail for reorganization.<sup>10</sup> As originally drawn up this act provided that a reorganization plan need be approved only by the Superintendent and the Board of Directors. It also provided that not more than 80 per cent of the sound assets of a bank might be paid out to depositors. The bank was to issue to its depositors certificates representing the proportion of their accounts which under this provision could not be withdrawn. No dividend could be paid on the stock of a bank until these certificates had been retired. The certificate holders were entitled to vote for directors as though the unpaid amount of their certificates represented stock of the same par value. They also had the right to convert their certificates into stock.

Because of certain objections to this plan, one being that depositors were not given adequate voice in its prep-

<sup>8</sup> N.Y. Laws, Chap. 41, 1933.

<sup>9</sup> New York, *Report of the Superintendent of Banks for 1933*, p. 34.

<sup>10</sup> *Amendments to the Banking Law*, New York Banking Department, 1933, pp. 5-7.

aration, another reorganization act, which became Section 61(a) of the Banking Law, was passed at the extraordinary session of the Legislature.<sup>11</sup> This act provides that stockholders are to contribute their shares of stock, or money, or both, in lieu of assessments on such stock. All depositors and stockholders are bound by any such plan which has been approved by depositors representing at least 80 per cent of the bank's total deposits, and stockholders owning at least two-thirds of its capital stock. Further, such plan must be approved by the Supreme Court for the county in which the bank in question is located. Stock which is surrendered may be sold or placed in escrow. In the latter case all dividends accruing to it are impounded for the benefit of depositors. Usually provision is made for sale of the stock for the benefit of depositors, should their certificates not be paid off at the end of five years.<sup>12</sup>

Assets which are accepted as sound investments for the reopened bank are segregated more critically than are good assets in the course of regular examinations. In at least one case a mortgage company was organized to take over unacceptable assets; the depositors are to receive all collections made by the mortgage company. In some cases the Banking Department has attempted to change the management of a reorganized institution.

*Reorganization in Michigan.* On March 22 a law was enacted in Michigan under which the Commissioner was authorized to reorganize unlicensed banks under his supervision.<sup>13</sup> On the same date the Governor appointed an Advisory Banking Commission consisting of the At-

<sup>11</sup> *Acts Passed at the Recent Extraordinary Session of the Legislature*, New York Banking Department, pamphlet dated Sept. 6, 1933.

<sup>12</sup> New York, *Report of the Superintendent of Banks for 1933*, pp. 19-20.

<sup>13</sup> Public Acts of 1933, Act 32.

torney-General, the Secretary of State, the State Treasurer, and the Superintendent of Public Instruction. This Commission appointed all conservators and their attorneys upon the recommendation of the Commissioner and the Governor. It also passed upon all reorganization plans, and all regulations governing conservatorships.

With about two-thirds of the frozen deposits in state member banks, it was recognized that any reorganization plan had to be acceptable to the Federal Reserve officials. Only after several weeks was a plan drafted which was satisfactory to the Federal Reserve Bank, the Attorney-General, and attorneys representing the several closed banks.

As finally adopted, the procedure involved the submission by the conservator of each bank of a detailed report of its condition. The conservator might recommend reorganization under one of the two blanket plans finally approved by the authorities. One of these plans provided for opening on an unrestricted basis, the other on a restricted basis. Both included the following provisions:

1. A 100 per cent stock assessment was to be levied, to constitute the new capital. Shareholders paying the assessment were to retain their stock; others were to forfeit theirs and might still be proceeded against for a judgment.<sup>14</sup>

2. No dividends might be paid to stockholders until a surplus equal to 20 per cent of capital was established.

3. Capital was to be provided in such ratio to deposits as the Commissioner might determine, and was to be represented by sound assets.

---

<sup>14</sup> A decision of a circuit court denied such a judgment on the grounds that the Banking Department had employed "loose arbitrary methods to evaluate the assets of the bank" and that the "assessment was made without regard for the solvency or insolvency of the bank, but rather to undervalue assets to better establish greater security for the reorganized bank." The case was that involving an assessment on the stock of the Ludington State Bank levied against the William A. L. Roth estate, decided by Circuit Judge Cutler on February 12. *American Banker*, Feb. 20, 1934.

4. Officers and directors were to be approved by the Commissioner. All expenses were to be subject to the control of the Commissioner.

5. Interest on claims was to be allowed up to March 4, 1933, and offsets were to be allowed.

6. Preferred stock could be issued in form satisfactory to the RFC.

Openings on a restricted basis were subject to the following terms:

1. Certain deposits were made available without restriction. These included: state and postal savings deposits, secured and preferred public funds, reserves of other state banks, trust department deposits, school savings deposits, unsecured deposits under \$10, and other preferred deposits.

2. A percentage of the remaining deposits was waived and represented by certificates of participation in a trust fund consisting of unacceptable assets turned over to trustees for liquidation. The bank might exchange any assets retained for any of these within two years of the reorganization.

3. The remainder of these deposits was made available in the form of time certificates of deposit maturing from one to five years in equal amounts each year. These certificates were to bear interest at 1 per cent the first year, 2 per cent the second and third years, and 3 per cent the fourth and fifth years. They were to be callable at any time, and to be acceptable in payment of any obligation due the bank, including stock assessments, or for the purchase of any assets of the bank or of its stock.

The trust fund, sometimes called the depositors' corporation, against which certificates of participation were issued, assumed liability to the RFC for loans made prior to or as an incident of the reorganization, and assets approved by the RFC were transferred to it to secure such loans. This made possible reopening with no "bills payable." To the trust fund were transferred slow assets selected by the Commissioner, stock assessments not paid in to capital, and all items previously charged off but still owned by the bank. All of these assets are pledged

with the RFC until the latter has been reimbursed. The bank is to service these assets. The trust fund, or depositors' corporation, may be dissolved by vote of the certificate holders, and will be administered during its life by their appointees. Prior to the adoption of a reorganization plan, the approval of the owners of 75 per cent of the deposits was required, after which it was binding on all.

Considerable red-tape impeded the reorganization of Michigan banks. The depositors, the conservator, the Commissioner, the Governor, and in some cases Federal Reserve and RFC officials, had to agree to each plan. Any dissenting depositor or stockholder could appeal to the courts, which might order payment of certain claims either in cash or by the allocation of assets, or might require conformity to the plan.

#### IV. THE NUMBER OF REORGANIZATIONS

Complete statistics concerning bank reorganizations are not available. Most of the banks which were not licensed by April 12, 1933, however, underwent at least a capital reorganization, and in most cases some scaling down of deposits. The number of active banks in operation since that date includes some completely new institutions, but most of these took over part of the assets and deposits of closed banks. Between April 12, 1933 and June 27, 1934 the number of licensed banks increased by approximately 2,100, which may be taken as the rough number of reorganizations.

By June 30, 1934, 989 national banks with deposits of about 1,700 million dollars had been reorganized. This compares with 1,400 national banks restricted after the bank holiday, with deposits of nearly 2 billion dollars. At the end of June 94 national banks were still on

a restricted basis. Of these, 81 with frozen deposits of \$87,881,000 had had their reorganization plans approved, and 13 with \$7,895,000 frozen deposits had had reorganization plans disapproved. The remainder, 568 banks with deposits of about 1,011 million dollars, had been placed in liquidation.<sup>15</sup>

A sample analysis of the national banks in seven states which failed to secure licenses immediately after the holiday, but which reopened by the end of 1933, indicates that approximately 62 per cent of the frozen deposits were released at the date of reopening. There was of course some additional realization on frozen assets after reopening.

No exact figures are available for state banks. But the number of licensed state institutions increased from 8,028 on April 12, 1933 to 9,587 on June 27, 1934. Apparently some 1,500 state bank reorganizations took place during this period.<sup>16</sup> The amount of frozen deposits involved is conjectural, but between April 12 and December 31, 1933 deposits in non-licensed state banks declined about 1.4 billion dollars, of which about 900 million was accounted for by banks placed in liquidation.<sup>17</sup> To the remaining 500 million perhaps another 100 or 200 million should be added to arrive at the total deposits of state banks reorganized by June 30, 1934.

<sup>15</sup> Data for national banks cover the period from Mar. 16, 1933 to June 30, 1934. Information was obtained from office of the Comptroller of the Currency.

<sup>16</sup> *Federal Reserve Bulletin*, July 1934, pp. 496-97.

<sup>17</sup> These computations are from *Federal Reserve Bulletin*, April 1934, p. 251, and May 1934, p. 309. Tables giving licensed banks by states on Apr. 12 and Dec. 27, 1933, and by Federal Reserve districts on June 27, 1934 will be found on pp. 256-58.



**PART IV**  
**FEDERAL FINANCIAL AID TO**  
**DISTRESSED BANKS ·**

## CHAPTER XI

### RFC LOANS TO OPEN BANKS

In Chapter I we referred briefly to the efforts that were made in 1932 to check the tide of bank failures by lending federal money to distressed banks through the agency of the Reconstruction Finance Corporation. In this chapter we describe the procedure which was employed in these operations and summarize the results obtained.

Of course an attempt to evaluate the activities of the RFC must, at the present time, confine itself to a considerable extent to pointing out potentialities. Some of its operations have practically run their course, and the degree of their effectiveness is by now apparent; but for most of them sufficient time has not elapsed to make a definitive appraisal possible.

#### I. PROCEDURE

Under regulations promulgated by the RFC, loans to banks were to be secured either by pledging of assets acceptable to the RFC as collateral for promissory notes or by rediscounting such assets. The application forms call for sufficient credit information to disclose the financial condition of the applicant and the value of the security. A state bank, in addition, submits a copy of the report of its latest examination.

Approval of a bank's directors and counsel must be secured. The application is then filed with the local agency of the RFC, which transmits it to the Washington office for final consideration. If approved, the proceeds of the loan are made available through the Fed-

eral Reserve Banks. Collateral, if required by the RFC, must be indorsed or assigned to the Corporation.<sup>1</sup>

The RFC Act removed, for all loans made under it, the limitation of the indebtedness of national banks to the amount of their capital.<sup>2</sup> But it could not, of course, free state banks from the restrictions imposed by the state laws under which they operated. These limits usually restricted indebtedness to capital and surplus or some percentage or multiple thereof,<sup>3</sup> or to unimpaired capital and surplus, or to a percentage of deposits or assets.<sup>4</sup> Furthermore, these laws usually limited the collateral pledged to 50 per cent in excess of the loans.<sup>5</sup> In most states, however, these restrictions could be waived by the supervisor of banks. Recent legislation in most states has removed all restrictions on borrowing from the RFC.<sup>6</sup> In some states, special sessions of the Legislature were called to enact such enabling legislation, after it had been decided that existing laws prohibited acceptance of loans from the RFC.

## II. AMOUNT OF LOANS TO OPEN BANKS

In less than three months after the enactment of the RFC Act the Corporation aided 1,319 banks.<sup>7</sup> By Aug-

<sup>1</sup> *RFC Circular No. 1*, Feb. 1932.

<sup>2</sup> 47 Stat. L. 8, amending R.S. 5202 as amended by 41 Stat. L. 297.

<sup>3</sup> For examples, see Ore. Laws, 1931, Sec. 22-802(d); Miss. Code Ann., 1930, Sec. 3847.

<sup>4</sup> For example, see Del. Laws, 1921, Sec. 18, p. 299; R.I. Acts and Resolves, 1931-32, p. 105; Ark. Laws, 1932, Art. 4, Sec. 1.

<sup>5</sup> For example, see Del. Laws, 1921, Sec. 18, p. 299.

<sup>6</sup> Such permission was frequently given under extremely general provisions. In Oregon, with the approval of the Superintendent of Banks, "any bank or trust company may take advantage of any law that has been enacted or may be enacted by the Congress of the United States for the relief of banks and trust companies or for their benefit." Ore. Code, 1930, Chap. V, Title XXII, Sec. 22-531, added by Laws, 1933, Chap. 227, Sec. 21.

<sup>7</sup> Testimony of Governor Meyer of the Federal Reserve Board before a sub-committee of the House Committee on Banking and Currency, Apr. 14, 1932.

ust 31, 1932 the Corporation had authorized loans of \$784,214,459 to 4,324 banks, upon 6,584 applications.<sup>8</sup>

This outpouring of funds was accompanied by a revival of confidence in the banking system. The withdrawal of deposits ceased, and there were only 85 failures in August, involving \$34,730,000 in deposits, while in the preceding seven months there had been 952, with deposits of \$587,320,000.<sup>9</sup> The decline in failures was accompanied by a slackening of the volume of new loans by the RFC, the aggregate of new authorizations in October being smaller than that of any prior month in the Corporation's history.<sup>10</sup> Repayments of these loans had amounted to \$256,712,528, or 31 per cent of authorizations.<sup>11</sup> In fact the balance of authorizations less repayments decreased by over \$20,000,000 between July 31 and October 30, indicating that the banks as a whole were paying back more than they were borrowing.<sup>12</sup> Beginning in December the amount of loans again rose, and it steadily increased in the following months in an effort to stem the tide of panic. During the first quarter of 1933 the RFC authorized loans to open banks of \$279,106,522, over three times the amount of the preceding quarter.<sup>13</sup>

The large number of liquidations and reorganizations subsequent to the bank holiday, and the restoration of confidence and a more sound banking structure, caused a shift of interest from loans to open banks to loans to receivers and conservators. The amount of loans to open banks authorized during the last three quarters of 1933 was less than half the amount authorized in the first quarter. The following table presents authorizations

<sup>8</sup> *RFC Summary Release*, Oct. 4, 1932.

<sup>9</sup> *Federal Reserve Bulletin*, September 1932, p. 613.

<sup>10</sup> *RFC Summary Release*, Nov. 16, 1932.

<sup>11</sup> *RFC Report to Congress for October 1932*.

<sup>12</sup> The same, and report for July 1932.

<sup>13</sup> *RFC Report*, fourth quarter, 1932, and first quarter, 1933.

148 *CLOSED AND DISTRESSED BANKS*RFC LOANS AUTHORIZED TO OPEN BANKS AND TRUST COMPANIES  
FEBRUARY 2, 1932 TO JUNE 30, 1934

Quarter	Number of Loans	Amount Authorized (In thousands of dollars)
First, 1932.....	886	156,009
Second.....	3,207	459,382
Third.....	2,366	198,303
Fourth.....	1,421	84,517
First, 1933.....	1,651	279,107
Second.....	423	64,274
Third.....	160	34,528
Fourth.....	181	23,440
First, 1934.....	107	24,693
Second.....	62	17,681
Total.....	10,464	1,341,934

for loans to open banks and the number of loans, by quarters, for 1932, 1933, and the first two quarters of 1934.

The table on page 149 presents cumulative totals not only for authorizations, but for repayments and other items concerning loans to open banks.

It will be noted that since March 31, 1933 the amount of loans outstanding to open banks has consistently decreased. Authorizations from that date to the end of June 1934 totalled \$149,542,000<sup>14</sup> and disbursements \$134,665,000, while repayments amounted to \$522,166,000.

### III. EFFECTS OF LOANS ON THE NUMBER OF FAILURES

Obviously the RFC failed to prevent a collapse of the banking system. All banks closed in March 1933 and some 4,200 failed to reopen immediately. The RFC did succeed, however, in bolstering depositor confidence and in stemming the tide of suspensions for nearly a year.

The best index of depositor confidence is the amount

<sup>14</sup> Rescissions of loans in quarters subsequent to those in which they were authorized in the amount of \$19,872,000 have been deducted.

## RFC LOANS TO OPEN BANKS

149

RFC LOANS AUTHORIZED TO OPEN BANKS AND TRUST COMPANIES  
 FEBRUARY 2, 1932 TO JUNE 30, 1934  
 Cumulative Quarterly Totals  
 (Dollar items are in thousands)

Quarter	Number of Loans	Amount Authorized <sup>a</sup>	Amount Disbursed	Amount Repaid	Amount Outstanding
First, 1932.....	886	\$ 156,009	\$ 124,107	\$ 6,221	\$117,886
Second.....	4,093	615,391	487,062	67,097	419,965
Third.....	6,459	809,318	675,254	149,717	525,537
Fourth.....	7,880	893,745	810,110	233,932	576,178
First, 1933.....	9,531	1,172,520	987,445	309,834	677,611
Second.....	9,954	1,234,058	1,038,930	424,463	614,467
Third.....	10,114	1,268,023	1,077,094	544,141	532,953
Fourth.....	10,295	1,290,700	1,091,785	628,835	462,950
First, 1934.....	10,402	1,309,442	1,103,080	750,014	353,066
Second.....	10,464	1,322,062 <sup>b</sup>	1,122,110	832,000	290,110

<sup>a</sup> The figures in this column differ from those in the preceding table because rescissions of loans in quarters subsequent to those in which they were authorized have been deducted here but not in the other table.

<sup>b</sup> Includes \$189,961,503.76 withdrawn or canceled and \$9,991,044.48 remaining to the credit of the borrowers, not disbursed.

In addition, on June 30, 1934, the Corporation had outstanding agreements to make 14 loans to open banks and trust companies upon the performance of specified conditions, aggregating \$7,909,101.84.

of cash in circulation. A rapid and sustained increase indicates a conversion of bank deposits into cash. The following table gives the amount of money in circulation from the year preceding the establishment of the RFC through June 1934 (average of weekly figures for the last month in each quarter, in millions of dollars):<sup>15</sup>

Date	Money in Circulation
December 1930 .....	4,823
March 1931 .....	4,590
June .....	4,750
September .....	5,133
December .....	5,611
March 1932 .....	5,531
June .....	5,530

<sup>15</sup> *Federal Reserve Bulletin.*

September .....	5,685
December .....	5,699
March 1933 .....	6,998
June .....	5,742
September .....	5,632
December .....	5,811
March 1934 .....	5,368 <sup>18</sup>
June .....	5,341 <sup>16</sup>

The increase in circulation, which amounted to nearly 800 million dollars in 1931, was checked during 1932, the first year of operation of the RFC. But the increase during the first quarter of 1933 shows that declining confidence in banks had been only temporarily arrested. On March 8, 1933 the total of money in circulation was over 7.5 billion dollars, an all-time high and an increase of over 1.5 billion in two weeks.<sup>17</sup>

The decline in deposits was chiefly attributable to cancellation of bank credit rather than to withdrawals of cash. Hence it involved a contraction of the total volume of circulating media. This the RFC arrested only temporarily. Total bank deposits had dropped nearly 6 billion dollars—about 12 per cent—in the last half of 1931. In the first half of 1932 the fall was about 4 billion dollars, while in the next six months it was only 300 million dollars.<sup>18</sup> But the rate of decline then increased until the bank holiday.

Bank suspensions were also temporarily arrested by RFC lending operations. In the last half of 1931 there were 1,611 failures, involving deposits of \$1,270,648,000.<sup>19</sup> In the entire year 1932, the first year

<sup>16</sup> Gold coin in circulation excluded, between 200 and 300 million dollars.

<sup>17</sup> *Federal Reserve Bulletin*, April 1934, p. 211.

<sup>18</sup> The same, p. 216.

<sup>19</sup> *Annual Report of the Federal Reserve Board*, 1931, p. 126.

of the RFC's operations, 1,456 banks failed, with deposits of \$715,626,000. The accompanying table gives suspensions and RFC loans by months from the establishment of the RFC to the bank holiday.

**BANK SUSPENSIONS AND RFC LOANS TO BANKS, JANUARY 1932-FEBRUARY 1933<sup>a</sup>**

(Dollar items are in thousands)

Month	Loans Authorized <sup>b</sup>	Suspensions <sup>c</sup>	
		Number	Deposits
January 1932.....		342	\$ 218,867
February.....	\$ 44,625	121	57,266
March.....	108,751	46	14,760
April.....	152,104	74	31,613
May.....	113,118	82	34,370
June.....	219,787	151	132,661
July.....	97,266	132	48,743
August.....	87,776	85	29,513
September.....	29,952	67	13,508
October.....	21,803	102	20,092
November.....	23,250	93	43,319
December.....	51,006	161	70,914
January 1933.....	56,133	242	134,202
February.....	132,422	154	64,703

<sup>a</sup> *Annual Report of the Federal Reserve Board, 1932, p. 154; Federal Reserve Bulletin, April 1934, p. 251; and RFC Report, fourth quarter, 1933, p. 23.*

<sup>b</sup> Includes loans to closed banks amounting to about 100 million dollars.

<sup>c</sup> Exclusive of banks closed by local holidays.

#### IV. ATTEMPTS TO PREVENT THE BANK HOLIDAY

During the period covered by the preceding table, RFC disbursements of cash were greater than the total amount of deposits involved in suspensions. But the Corporation could not cope with the cash withdrawals of three-quarters of a billion dollars a week which took place immediately before the bank holiday. Had it been authorized to convert all bank deposits into cash the holiday could certainly have been averted, but such a guaranty of deposits might have required the absorption by the Treasury of losses running into billions. The is-



sues involved would have been similar to those presented by proposals to pay off in full depositors in closed banks, which are discussed below.<sup>20</sup>

RFC officials apparently made a sincere effort to save the Detroit banks from suspension, offering advances on the most liberal terms possible under the law. Before examining their efforts to prevent the Michigan holiday, which, if successful, might have obviated the necessity for the national holiday, it should be noted that the banks of Michigan had been interested in the formation of an institution to liquefy assets. During 1931 and 1932 it was realized that the grouping together of the larger banks in the state under two holding companies had created a dangerous situation. The failure of one member of a group would have caused a loss of confidence in all the other members, and probably in the other group. During the fall of 1931 Michigan bankers urged the establishment of relief agencies by the federal government. The Michigan Association of the National Credit Corporation was organized with enthusiasm, but was relatively ineffective. Some of the large banks made no use of it or of the RFC until just before the holiday. The 5 per cent interest then charged by the RFC acted as a deterrent toward applying for loans until they were absolutely necessary.<sup>21</sup>

In 1932 the Union Guardian Trust Co. of Detroit, a member of the Guardian Detroit Union Group, the closing of which ultimately precipitated the Michigan bank holiday, was granted net loans of \$12,642,220.<sup>22</sup> In June of that year the Trust Company applied for 28 million dollars to be used for the complete liquidation

<sup>20</sup> See pp. 181-87.

<sup>21</sup> 73 Cong. 2 sess., *Stock Exchange Practices*, Hearings on S. res. 84 and S. res. 56 and 97 before Senate Committee on Banking and Currency, pp. 5561-71 and 5617.

<sup>22</sup> The same, p. 4813.

of its deposit liability. It was feared at that time that the institution was on the verge of suspension because of inability to meet anticipated withdrawals, and that its closing would be followed by that of the rest of the banks in eastern Michigan.<sup>23</sup> The RFC, however, was unwilling to make an advance of this amount on the assets of the Trust Company, suggesting that its stockholders and large depositors should assume some of the burden.<sup>24</sup> The officers of the Trust Company felt that such an appeal, especially to depositors, would be exceedingly dangerous, and in February 1933 asked for an additional 50 million dollars for it and for other members of the group, which would have increased the total group indebtedness to the RFC to nearly 63 million.<sup>25</sup>

RFC examiners worked day and night making an appraisal of the collateral offered, and numerous conferences were held between them and group officers, Detroit industrialists, Cabinet officers, and even President Hoover. The RFC was unwilling, however, to increase its commitment to more than \$37,720,000, which, the RFC chief examiner stated, was practically the liquidating value of the assets offered, and an exceedingly liberal offer.<sup>26</sup> The following figures, in thousands of dollars, indicate the commitments which the RFC was willing to make, compared with the face value of the collateral.<sup>27</sup>

Collateral	Face Value	Commitment
Bonds . . . . .	13,085	8,192
Secured notes . . . . .	6,374	2,639
Unsecured notes . . . . .	730	313
Mortgages . . . . .	12,466	11,224
Other . . . . .	556	393
<b>Total . . . . .</b>	<b>33,211</b>	<b>22,761</b>

<sup>23</sup> The same, p. 4810.

<sup>24</sup> The same, p. 4814.

<sup>25</sup> The same, p. 4755.

<sup>26</sup> The same, p. 4728.

<sup>27</sup> The same, p. 4740.

The commitment on the mortgages was decidedly generous in view of the usual loan value of such assets. City of Detroit notes with a face value of \$3,214,000 were among the collateral. Although the credit of Detroit was at a decidedly low ebb, the RFC offered \$2,893,000 on this security. Notes of the Fisher Company with a face value of \$1,119,000 were given a loan value of \$1,007,000. On a \$2,350,000 issue of Simmons Company bonds underwritten by the Guardian Detroit Union Group, of which it had not been able to dispose, a loan of \$2,115,000 was offered. Guardian National Bank of Commerce Collateral having a face value of approximately \$12,000,000 was accorded a loan value of \$10,798,000.<sup>28</sup>

The Trust Company, which needed 20 million dollars, had assets with a face value of only \$7,940,000 and a loan value of but \$5,096,500. To make up the deficiency, assets of relatively negligible value, later shown to be over-estimated, were taken from non-banking affiliates.<sup>29</sup>

When it became apparent that the most liberal RFC loan would not furnish sufficient liquidity, an appeal was made to the Ford interests for additional capital and a pledge that their deposits would be subordinated for a time. This would have reduced demand liabilities to a point at which the RFC funds would have offered adequate protection. But Henry Ford and his company had already aided the group to the extent of about 16 million dollars, part of which was unsecured. They now agreed conditionally to a subordination of their 7.5 million dollars in the trust company, but refused to add 5 million dollars in new capital for the group, in spite of

<sup>28</sup> The same, p. 4742.

<sup>29</sup> The same, p. 4741.

urging on the part of members of the President's Cabinet. Furthermore, Mr. Ford stated that if the Guardian banks should close he would withdraw his deposits from the banks of the other group—the Detroit Bankers' Company—as he felt both groups should be treated alike. Other large depositors refused to agree to the plan unless Mr. Ford did.<sup>80</sup>

It is plain that the chief difficulty in the way of the prevention of the Michigan holiday by the RFC was the apparent insolvency of the Guardian Trust Company. The RFC could not lawfully have furnished sufficient cash to pay off its deposits since the loan would have been inadequately secured. To have pledged the assets of other members of the group would only have aggravated their position, and would have been unfair to their depositors.

There was a forlorn hope that the declaration of a short holiday in Michigan would provide a breathing spell in which the tangle might be unraveled. By such a course there was a much better chance of effecting adjustments than in keeping the banks open. Had the bank holiday not been declared, depositors' runs would have caused practically universal suspension within a day or so.

As it happened, the Michigan banks were not reopened and the national bank holiday speedily followed. As in Detroit, the RFC could have saved the situation only by virtually guaranteeing all deposits. The losses would then have been distributed among the taxpayers rather than depositors. However, the Corporation had no legal authority to take such a step.

It has been alleged that the publication of the names of banks borrowing from the RFC caused depositors in

<sup>80</sup> The same, pp. 4570, 4586, 4592-96, 4734, 5794.

these institutions to lose confidence. This allegation is not substantiated by the record of failures. Names of RFC borrowers were made public for the first time in the latter part of August 1932, and there were fewer failures in September than in any previous month since March. In October and November the number was but slightly higher than in August. Depositors had a right to know if their institution was borrowing, and they would have known it from the next statement of condition in any event.

Numerous recipients of RFC funds did fail. Of 65 banks in Chicago which borrowed from the RFC up to July 20, 1932, only 18 remained open in February 1933.<sup>31</sup> In some cases RFC loans postponed or prevented suspensions. For example, a run on the Union Trust Company of Baltimore was halted August 19, 1932 by 12.5 million dollars from the RFC accompanied by public statements on the part of President Hoover and RFC officials that the institution was solvent and its depositors in no danger.<sup>32</sup>

Such statements, while appearing justified at the time, worked obvious hardship on the depositor who left his money in only to take a loss when the bank failed to re-open after the holiday. While the RFC officials deserve commendation for the valiant attempt they made to halt the wave of bank failures, they laid themselves open to censure by making declarations that all was well, since subsequent events have shown all was not well. It would perhaps have been better if their statements had been confined to facts rather than opinions, or if they had made no statements at all.

<sup>31</sup> *Trust Companies*, February 1933, p. 278.

<sup>32</sup> *New York Times*, Aug. 20, 1932; *RFC Report to Congress for August 1932*.

## V. DISTRIBUTION OF LOANS

The RFC has been accused of advancing the major portion of its loans to large banks while it was the small banks that needed help. But there is a remarkably close correlation between loans authorized to the various size groups of banks and the number and assets of banks in these groups, as the following tables indicate. The RFC publishes loans only by size of community, but distribu-

NUMBER OF BANKS AUTHORIZED TO BORROW FROM THE RFC COMPARED WITH NUMBER OF BANKS<sup>a</sup>  
Classified by Size of Community

Population of Community	Number of Banks <sup>b</sup>	Number of Borrowers <sup>c</sup>	Number of Borrowers as Percentage of Number of Banks
Under 5,000.....	16,409	5,072	31
5,000- 9,999.....	1,831	567	31
10,000-24,999.....	1,607	528	33
25,000-49,999.....	746	249	33
50,000-99,999.....	579	211	36
100,000 and over.....	1,694	571	33
All communities....	22,866	7,198	31

<sup>a</sup> *Changes in the Number and Size of Banks in the United States*, p. 48; *RFC Report*, second quarter, Table 8, 1934 (mimeographed).

<sup>b</sup> As of June 30, 1930 or nearest available date.

<sup>c</sup> In 1932 and 1933. Data include loans for liquidation or reorganization.

tion on this basis is essentially similar to one by size of banks.<sup>28</sup>

These figures indicate a remarkably even distribution of RFC funds among banks according to their size. There were naturally some changes in the relative size of banks between 1930 and 1932, but these were not of sufficient importance to invalidate the comparison.

The table on page 158 presents a similar comparison

<sup>28</sup> *Changes in the Number and Size of Banks in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, pp. 34 and 48.

by amounts of loans authorized and distribution of bank assets. Like the preceding one, it indicates no undue favoring of the large institution.<sup>84</sup>

At least one of the loans to large banks has been the occasion of much criticism, however. Chairman Dawes resigned from the RFC on June 6, 1932. On June 27 it was announced that the Corporation had loaned 80

**BANK LOANS AUTHORIZED BY THE RFC, COMPARED WITH BANK LOANS AND INVESTMENTS CLASSIFIED BY SIZE OF COMMUNITY<sup>a</sup>**

(Dollar items are in thousands)

Population of Community	Loans and Investments <sup>b</sup>	RFC Loans <sup>c</sup>	RFC Loans as Percentage of Loans and Investments
Under 5,000.....	\$ 6,630,687	\$ 227,945	3.4
5,000- 9,999.....	2,340,889	80,561	3.4
10,000-24,999.....	3,530,361	127,122	3.6
25,000-49,999.....	2,501,967	108,309	4.3
50,000-99,999.....	2,759,011	213,800	7.9
100,000 and over.....	30,299,000	1,048,332	3.4
All communities....	\$48,061,915	\$1,806,069	3.8

<sup>a</sup> Changes in the Number and Size of Banks in the United States, p. 48.

<sup>b</sup> As of June 30, 1930 or nearest available date.

<sup>c</sup> Loans made in 1932 and 1933. Data include loans for liquidation or reorganization.

million dollars to his bank, the Central Republic Bank and Trust Company of Chicago, and that New York and Chicago banks had loaned sufficient funds in addition to permit the Central Republic to go into voluntary liquidation and pay off its depositors in full.<sup>85</sup>

It was disclosed later that the RFC loan totalled 90 million dollars. Criticism has been levied against this action on two counts. First, it was alleged that the bank was able to secure such a complete release of its deposit responsibility only because of the connection of Mr.

<sup>84</sup> For further discussion see *Banking Week*, Sept. 16, 1932 and following issues.

<sup>85</sup> *New York Times*, June 28, 1932.

Dawes with the Corporation. President Hoover himself denied this implication, saying that Dawes did not ask for the loan, and that even the Democratic members of the RFC Board insisted on its being made.<sup>36</sup>

The transaction is also questionable, however, because of the doubtful character of the security. The loan is at present in default both as to interest and principal. Default on the principal was to be expected, inasmuch as the loan was made for only one year and liquidation was certain to require more than that period. But default on the interest indicates that the quality of the collateral is not what it should have been. Much of the collateral consists of obligations of Insull concerns and German bonds, the values of which have fallen considerably since the loan was made.<sup>37</sup> Chairman Jones of the RFC has indicated skepticism as to whether the advance ever will be repaid in full, stating that the present value of collateral will not cover the 62 million dollars still outstanding, and that recourse may be had to enforcement of stockholders' liability.

As an indication of its feelings on the subject, Congress the next month prohibited RFC loans to "any financial institution, any officer or director of which is a member of the Board of Directors of the Reconstruction Finance Corporation or has been such a member within the twelve months preceding the approval of the loan or advance."<sup>38</sup>

However, the loan did save a dangerous situation in Chicago. In the three years previous to its granting, 165 banks had failed in that city, 22 in the previous week. Runs on the Loop banks, the Central Republic in par-

<sup>36</sup> Speech in St. Louis, Nov. 4, 1932.

<sup>37</sup> *American Banker*, May 5, 1934.

<sup>38</sup> 47 Stat. L. 715.



ticular, had developed.<sup>39</sup> Had the bank failed, repercussions would have been widespread.

Before the bank holiday RFC bank loans were concentrated in the Midwestern and Southern states. In both of these regions the loans amounted to over 3 per cent of the total bank resources. In the Western and Eastern states loans were approximately six-tenths of one per cent of the total bank resources. Loans amounting to nearly 5 per cent of their total resources were made to state banks in Midwestern states but those to national banks in that region amounted to approximately one per cent of their resources. In the Pacific states national banks received loans of 3 per cent and state banks of 1.5 per cent of their resources.<sup>40</sup>

Although the RFC is a federal agency, national banks certainly were not favored before the holiday. Their loans from the Corporation amounted to approximately one per cent, while state institutions received about 1.75 per cent of their resources.

#### VI. CONTROL OF MANAGEMENT

The statute empowering the RFC to regulate the salaries paid by financial institutions to which it makes loans<sup>41</sup> has given the RFC a considerable degree of control over the management of banks. One of the causes of bank failures commented upon by the Federal Reserve Committee on Branch, Group, and Chain Banking was that salaries were often paid which were not justified by earnings.<sup>42</sup> Salaries and bonuses in some cases have been entirely out of line with services rendered, especial-

<sup>39</sup> *New York Times*, June 28, 1932.

<sup>40</sup> E. C. Smith, "A Study of Depression Emergency Relief," *Studies in the Social Sciences*, Rensselaer Polytechnic Institute, 1933, pp. 22-23.

<sup>41</sup> 48 Stat. L. 120.

<sup>42</sup> *Causes of Failure of 120 Representative Member Banks Suspending in the Years 1921-30*, pp. 95ff.

ly when officers have been in virtual control. At the same time these officers frequently have received large additional emoluments from other corporations.<sup>48</sup>

The RFC, of course, can prevent such practices only in the case of borrowers from the Corporation, and as long as the offending institutions continue to borrow. But the fact that a bank must ask the RFC for aid is particular justification for requiring it to pare down exorbitant salaries.

<sup>48</sup> See, for example, 73 Cong. 1 sess., S. res. 56; 72 Cong. 2 sess., S. res. 84; *Stock Exchange Practices*, Hearings before Senate Committee on Banking and Currency, pp. 2320-22, 2325, 2337-38, 2359-61, 3003-04, 4017-19.

## CHAPTER XII

### RFC LOANS TO CLOSED BANKS

It is perhaps surprising that it took so many years to find a satisfactory means of expediting substantial initial payments to depositors in closed banks. The desirability of such procedure was early recognized. The deposit guaranty systems adopted in the several states had that as one of their objects. But while it has long been considered unobjectionable for individual depositors to borrow against receivers' certificates, there has not until very recently been any general acceptance of the idea that a receiver might borrow against the assets of a closed bank and distribute the proceeds of the loan to depositors.

One of the questions contained in a questionnaire sent out in 1908 by the National Monetary Commission was as follows:

Would it be well, in your opinion, to change the existing laws so that liquidating banks could, in some way, arrange to pay depositors more rapidly?

And the "question" continued:

A careful examination of the assets of failed banks will frequently show about how much dividend they can eventually pay, and considerable distress would be prevented if something approximating this amount could be paid to depositors without any delay.<sup>1</sup>

This letter was sent to national bank examiners, to clearing-house associations, to state bank supervisory officials,

<sup>1</sup> *Report of the National Monetary Commission*, Vol. 19, Pt. 1, p. 8. It will be noted that in this and following quotations the technical term "dividend" is used to denote payments to depositors. The authors have avoided the use of this word in the text because of its more usual connection with income distribution to stockholders.

and to bank officers generally. There was no unanimity of opinion expressed in the replies received. Some opposed the idea as too nearly resembling a guaranty of deposits, while others welcomed it as a method of staving off the guaranty of deposits.<sup>2</sup> Some thought it feasible for the government to make available an operating fund out of which creditors would be paid an amount estimated to cover the liquidation value of the assets; others suggested that the receiver should be permitted to borrow money and pledge the assets of the bank as collateral.

The President of the Chicago Clearing House Association characterized proposals to estimate the liquidation value of closed bank assets as hazardous, and added:

Would not the initial advance dividend, whether large or small . . . come to be construed as the official estimate of the Comptroller as to the value of the bank's assets, and would not this give rise to undue sacrifice by creditors of their claims to speculators and shylocks?<sup>3</sup>

A San Francisco banker thought the proposal "a dangerous opening." He suggested that:

with the increasing interrelations of banks, through clearing houses and otherwise, neighbor institutions may in future find it advantageous to the community and to themselves to take over sound assets for this purpose. . . . Where assets are not sound and are insufficient to pay in full, so that other banks in the same vicinity would be unwilling to touch them, we do not believe that anyone else, through any use of judgment, could determine a safe amount to advance.<sup>4</sup>

James B. Forgan, of Chicago, suggested that receivers might borrow, without recourse, from neighboring banks, pledging assets for the loans.<sup>5</sup>

<sup>2</sup> The same, p. 173.

<sup>4</sup> The same, p. 62.

<sup>3</sup> The same, p. 46.

<sup>5</sup> The same, p. 70.

It was not until 1932, however, that a federal fund for this purpose was actually provided. The Reconstruction Finance Corporation Act, approved January 22 of that year, authorized the RFC to make loans secured by the assets of a bank that was closed or in process of liquidation, to aid in reorganization or liquidation, upon application of the receiver or liquidating agent. The same act authorized receivers of national banks to contract for such loans and to pledge any assets of the bank for securing the same.<sup>6</sup>

#### I. PROCEDURE

The Reconstruction Finance Corporation Act authorized loans to closed banks for liquidation or reorganization and empowered receivers of national banks to borrow from the Corporation.<sup>7</sup> The Congress could not, of course, give authority to receivers of state banks to borrow. In many states there was no statute giving any such authority and in no state, of course, was there specific authority for borrowing from the RFC. In consequence, some delay in respect to the distribution of funds to depositors in state banks was occasioned.

As an example of the type of state legislation authoriz-

<sup>6</sup> 47 Stat. L. 7. The movement for a Federal Liquidation Corporation had received substantial recognition sometime prior to this. The idea appeared in Senator Glass's banking reform bill, S. 3215, introduced in the first session of the 72d Congress, and in succeeding drafts of this measure, of which the best known was S. 4412. Section 12-B of this bill provided for a Federal Liquidating Corporation to purchase and liquidate the assets of closed member banks, or to loan on such assets for the purpose of a prompt partial payment to depositors. Capital funds were to be furnished through a 125 million dollar appropriation from the Treasury, a sale of stock to the Federal Reserve Banks amounting to one-fourth their surplus, and subscriptions of one-fourth of one per cent of the deposits of member banks. The essential idea of these bills appears in the section of the Banking Act of 1933 which deals with the insurance of deposits. (Compare below, p. 218.)

<sup>7</sup> See p. 8.

ing the borrowing of funds from the RFC for this purpose, the experience of New York may be cited. In his report for the year 1932 the Superintendent of Banks suggested to the Legislature an amendment to the banking law permitting him to borrow from government or other agencies for the purpose of facilitating payments to depositors. The Banking Board also recommended the enactment of such legislation.<sup>8</sup> At the following session of the Legislature, as a result of these recommendations, a new section was added to the banking law. This section reads in part as follows:

69-a. Upon an order of the Supreme Court in and for the county in which the principal office of such corporation or private banker is located, the Superintendent is authorized to borrow money and to execute, acknowledge and deliver notes or other evidences of indebtedness therefor and to secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property whether real, personal or mixed, of such corporation or private banker. Money may be so borrowed for any one or more of the following purposes:

- (a) Facilitating liquidation;
- (b) Protecting or preserving the assets in his possession;
- (c) Declaring and paying dividends to depositors and other creditors;
- (d) Providing for the expenses of administration and liquidation;
- (e) Aiding in the reopening or reorganization of such corporations or of the business of such private bankers;
- (f) Aiding in the merger or consolidation of any one or more of such corporations;
- (g) Aiding in the sale of all of the assets of any such corporation or private banker.<sup>9</sup>

<sup>8</sup> *Annual Report of the Superintendent of Banks for 1932*, pp. 7 and

19.

<sup>9</sup> Additional examples of state laws authorizing such borrowings are Va. Acts of 1932, p. 161, and Del. Laws, Vol. 32, Chap. 103, Sec. 6, as amended.

Some states have as yet enacted no such legislation; others have only very recently done so. In January 1934 the Governor of Oregon signed Senate bill 31 permitting borrowing from the RFC or other sources.<sup>10</sup> On February 8 the Governor of Wisconsin signed a bill which authorizes the State Bank Commissioner to borrow federal funds for a closed bank and to pledge the bank's assets as security. Seventy-eight of the 170 closed banks in Wisconsin had already applied for such loans.<sup>11</sup> In a number of states where no specific legislation authorizes such borrowings, court decisions have upheld their legality. For example, in Washington there is no specific authorization to the receiver of a state bank to borrow for the purpose of making a distribution of cash to depositors. When the Cashmere State Bank failed a test case was brought before the courts and it was held that the receiver could borrow from the RFC for this purpose.<sup>12</sup> The attorneys of the RFC have held that the court decision in that case is sufficient authority to warrant the making of loans to state banks in Washington and applications have been accepted on that basis. In other states the RFC has recognized the opinions of attorney-generals as adequate authority for receivers to borrow, and has taken a special endorsement guaranteeing that the funds will be distributed to depositors.

A marked increase in these loans beginning in the fall of 1933 was attributable to the organization of a special committee known as the Deposit Liquidation Division of the RFC. Throughout the summer of 1933 there was agitation for a mass reopening of banks, or at least for a mass liquidation, with the federal government advanc-

<sup>10</sup> *American Banker*, Jan. 12, 1934.

<sup>11</sup> The same, Feb. 17, 1934.

<sup>12</sup> *In re Liquidation of Cashmere State Bank*, ex rel *Sims v. Supreme Court*, 13 Pac. (2d) 892 (Washington 1932).

ing to depositors in closed institutions all or a substantial share of their tied-up deposits, taking the assets for liquidation over a period of years. Some proposed that all or part of the loss of bank depositors should be socialized. The Committee for the Nation and the National Depositors' Committee actively campaigned for large-scale release of deposits.

In the fall of 1933, Administration leaders apparently decided that deposits tied up in closed banks were a deflationary factor retarding progress toward recovery. It was argued that a distribution of a substantial percentage of these funds to the many depositors of modest means throughout the country would provide a widely scattered purchasing power which could be exercised in the most effective way to "start the wheels moving."

The problems of the source of the funds to be advanced and the medium of distribution were given consideration. Several possibilities were canvassed. Some persons suggested an issue of paper money for the purpose, with the Treasury itself acquiring the assets of the banks. There was considerable talk of the creation of a special federal banking institution in the District of Columbia which would issue its own obligations to secure funds for this purpose. It was suggested as a possibility that one of the existing banks in the District be made the agency of the government for the purpose.

It was also suggested that the provisions of sections (m) and (n) of the law creating the Federal Deposit Insurance Corporation, quoted below, should be utilized, and that this Corporation should become the liquidator of the banks.<sup>18</sup> Since there was no market for its debentures, however, and since it hardly seemed right to use the insurance fund itself at the outset of the new

<sup>18</sup> See p. 218.



system for such a purpose, there was little hope in that direction.

Most of the closed banks, of course, were authorized to borrow from the RFC and a number of them had done so. In the end, the job was turned over to the Corporation, with the expectation that provision would first be made for all banks closed since January 1, 1933, and would later be extended to those closed prior to that time.

Early discussion in the press indicated that a sort of blanket advance of 50 per cent of deposits was to be made to all depositors, regardless of the condition of the bank's assets. But the plan adopted was in accord with the previous practice of the RFC. It was based on estimated recovery from assets pledged, with perhaps some greater degree of liberality.

The Deposit Liquidation Division was established under the authority of a statement issued by the President on October 15, 1933. It was headed by C. B. Merriam, a director of the RFC, and was administered by a Deposit Liquidation Board which comprised, in addition to Mr. Merriam, the Chairman of the RFC, the Under-Secretary of the Treasury, the Director of the Budget, the Comptroller of the Currency, and the Chairman of the Federal Deposit Insurance Corporation. On October 18 this Board appointed a committee in each of the twelve Federal Reserve districts. The chairmen of the committees were officers or directors of leading banking institutions in their respective districts. Local committees were appointed by the district committees to appraise assets of individual banks and transmit applications to the district committees. The members of these committees served without pay.

The Division's purpose, according to the Presidential statement above referred to, was "to stimulate and en-

courage liquidating agents of banks closed after January 1, 1933, to borrow from the RFC in order that funds may be made available to depositors as quickly as possible." It was stated that, wherever justified by the value of the closed bank's assets, loans were to be made up to 50 per cent of deposits, or more in certain cases, inclusive of distributions already made. "The maximum available loanable value" of banks closed during 1933 was estimated at a billion dollars, and the hope was expressed that approximately that amount would be distributed. It was also stated that funds of the FDIC might be used to supplement those of the RFC. The statement closed with a plea for all state and national authorities connected with closed banks to co-operate with the plan.

Prior to the establishment of the Deposit Liquidation Division, applications were submitted by receivers or other liquidating agents to the district agencies of the RFC, containing appraisals of the assets offered as collateral. If the agencies approved the applications, they were then transmitted to Washington where the whole or part of the amount requested might be granted, or the application rejected. Under the Deposit Liquidation Division procedure was simplified and expedited. In the case of state banks, local committees made contact with receivers, urging them to apply for loans, and made preliminary appraisals. Negotiations for loans to closed national banks were carried on in Washington between the Comptroller's office and the RFC. The co-operation of state banking supervisors was also solicited. These officials were requested to furnish information concerning closed banks within their jurisdictions, and to notify receivers of the RFC's activities. The personnel and office facilities of the 32 RFC district agencies were placed at the disposal of the local committees.

Before the application could be considered, the court

having jurisdiction over the receiver had to give its authorization, and the counsel for the receiver had to give his opinion that the loan was legal in all respects. Finally, it was necessary for the State Bank Commissioner to approve the transaction. Securing the assent of these various parties caused considerable delay in getting applications through the mill. Once submitted to the RFC, they were acted upon with dispatch.

Applications approved by the local committees were sent, through the district chairmen, to the Deposit Liquidation Board and the RFC Board for final approval. If the loan was approved, funds were advanced as soon as called for by the liquidating agent. The latter usually retained custody of collateral essentially local in nature, which he could service better than RFC officials. Bonds and other obligations with long maturity were usually sent to the district agencies. To facilitate the distribution of funds as quickly as possible, moderate loans were authorized upon collateral with a readily ascertainable value, subject to increase upon completion of the appraisal of other assets.

In general, the state supervisors co-operated willingly with the RFC. They aided in establishing local appraisal committees, in acquainting all liquidating agents and receivers with the Corporation's activities, and in speeding applications of all banks in liquidation *en masse*. In Nebraska 60 banks operating under restrictions were placed in liquidation so as to make them eligible for loans. The Governor announced that the interests of depositors would be better served in this manner, inasmuch as prospects for reopening these institutions were slim.<sup>14</sup>

<sup>14</sup> *American Banker*, Jan. 12, 1934.

In making appraisals, the latest available examination or receivership reports were used. The Committee's appraisals followed the spirit of their instructions and fair liquidating values over a period of years were placed on the assets. In some cases their valuations were higher than those of the state banking officials.

The RFC sought to protect the value of the assets taken as collateral in every possible way. As a rule; title insurance was required on real estate loans and mortgages. In certain cases, however, signed statements of banking supervisors that the liens were as represented were substituted.

The RFC itself bore the greater part of the expense of the Deposit Liquidation Division, inasmuch as most of its operations were covered by the Washington headquarters and the district loan agencies. Travel expenses involved in appraisals were charged to the applying banks.

On April 15, 1934 the special committees set up by the Deposit Liquidation Board were consolidated with the RFC agencies. It was announced at the time that the work of appraising assets in closed banks was practically completed, but that some additional loans would be made.

## II. AMOUNT OF LOANS

As originally enacted, Section 5 of the Reconstruction Finance Corporation Act limited to 200 million dollars the amount that could be loaned for the relief of depositors in closed banks. This limitation was removed by an act of June 14, 1933.<sup>15</sup>

Perhaps on account of this limitation, and because no great agitation for the release of frozen deposits had

<sup>15</sup> 48 Stat. L. 141.

developed, this function of the RFC was of small importance until after the bank holiday. Aid to open banks then assumed a minor rôle, and the greatly increased number of closed banks occasioned a strong demand for loans to pay depositors in these institutions, or to provide liquidity for those reorganizing. Interest on RFC loans was reduced from 5.5 to 5.0 per cent on January 1, 1933; from 5.0 to 4.5 on July 1, 1933; and from 4.5 to 4.0 on October 1, 1933. The following tables show the marked growth in loans to closed banks after the holiday.

**RFC LOANS AUTHORIZED TO AID CLOSED BANKS AND TRUST COMPANIES  
FEBRUARY 2, 1932 TO JUNE 30, 1934**  
(Includes receivers, conservators, liquidating agents, and loans through mortgage loan companies to aid closed banks)

Quarter	Loans	New Borrowers	Amount Authorized (In thousands of dollars)
First, 1932.....	7	7	2,173
Second.....	310	310	26,675
Third.....	132	127	16,780
Fourth.....	116	94	12,285
First, 1933.....	90	49	39,622
Second.....	111	83	95,577
Third.....	128	88	128,148
Fourth.....	458	262	250,970
First, 1934.....	910	726	140,807
Second.....	593	478	89,676
<b>Total.....</b>	<b>2,855</b>	<b>2,224</b>	<b>802,713*</b>

\* In addition, on June 30, 1934, the Corporation had outstanding agreements to make 37 loans to aid closed banks and trust companies upon the performance of specified conditions, aggregating \$12,382,948.73.

The data on page 173 show that nearly 50 per cent of the amount of loans authorized to closed banks by June 30, 1934 were made during the last quarter of 1933 and the first quarter of 1934. As of the same date almost a third of the amounts disbursed had been repaid.

**RFC LOANS TO CLOSED BANKS** 173

**RFC LOANS TO AID CLOSED BANKS AND TRUST COMPANIES**  
**FEBRUARY 2, 1932 TO JUNE 30, 1934<sup>a</sup>**

Cumulative Quarterly Totals  
(Dollar items are in thousands)

Quarter	Loans	New Borrowers	Amount Authorized	Amount Disbursed	Amount Repaid	Amount Outstanding
First, 1932....	7	7	\$ 2,173	\$ 1,310	\$ 29	\$ 1,281
Second.....	317	317	28,848	11,776	1,277	10,499
Third.....	449	444	45,628	32,788	13,000	19,788
Fourth.....	565	538	57,913	42,572	22,352	20,220
First, 1933....	655	587	97,535	78,251	29,959	48,292
Second.....	766	670	193,112	150,663	50,745	99,918
Third.....	894	758	321,260	249,958	68,561	181,397
Fourth.....	1,352	1,020	572,230	383,377	91,773	291,604
First, 1934....	2,262	1,746	713,037	477,836	128,777	349,059
Second.....	2,855	2,224	802,713 <sup>b</sup>	544,060	182,764	361,296

<sup>a</sup> Includes receivers, conservators, liquidating agents, and loans through mortgage loan companies to aid closed banks.

<sup>b</sup> See note *a* to table on p. 172.

**III. LOANS TO FREE PUBLIC DEPOSITS**

The RFC has provided special relief for certain frozen deposits of local governments. An unknown but admittedly great amount of public deposits has been tied up by bank failures, a condition which has contributed to the numerous defaults on the part of counties, cities, school districts, and other government units.

Some of the states require that public deposits be secured by collateral. Others established their own insurance funds for such deposits. Liquidation payments on such deposits were of course made to the insurance funds. These funds became hopelessly insolvent during the wave of bank failures of the past few years.

An amendment to the RFC Act provided that the Corporation could make loans to such funds secured in part at least by all payments from the liquidation of the insured deposits.<sup>16</sup> So far Wisconsin is the only state to

<sup>16</sup> 48 Stat. L. 122.

have taken advantage of this provision; it had received \$8,387,716 for this purpose, of which \$4,911,539 had been repaid by June 30, 1934.<sup>17</sup> This advance made possible the disbursement of a substantial portion of the frozen funds of several Wisconsin local governments tied up in closed banks.

#### IV. DISTRIBUTION OF LOANS, BY REGIONS AND BY CLASS OF BANKS CONCERNED

The table on page 175 shows the volume of RFC loans to closed state and national banks through May 18, 1934, classified by regions and by states. It will be seen that more RFC funds have gone to regions where frozen deposits were larger than in other regions, but that the correlation is not very close. Nearly half of the loans to closed banks have gone to the North Central states. These states had about 30 per cent of the total deposits of banks which failed in 1932 and of those which were not immediately licensed in 1933. The Western Grain and Rocky Mountain states, on the other hand, received a relatively small volume of loans in comparison to their frozen deposits. The large amount of loans made in the North Central states was increased by the strenuous efforts to provide funds to the depositors of the two closed Detroit institutions.<sup>18</sup> Relatively large institutions in Cleveland and Toledo have also received sizable loans. Discrepancies elsewhere may be explained in part by lack of co-operation by state officials.

State institutions received slightly over half of the volume of closed bank loans and a small majority of the banks which received loans have been state banks. On the other hand about 81 per cent of the banks failing in 1932 were state banks, and they had about 70 per cent of the

<sup>17</sup> *RFC Report*, first quarter 1934, Tables 1 and 5 (mimeographed).

<sup>18</sup> Compare pp. 152-55 and 179-80.

**RFC LOANS AUTHORIZED TO CLOSED NATIONAL AND STATE BANKS,  
THROUGH MAY 18, 1934<sup>a</sup>  
Classified According to Geographic Distribution**

Region and State	Number of Banks			Amount of Loans (In thousands of dollars) <sup>b</sup>		
	National	State	Total	National	State	Total
<b>NEW ENGLAND</b> .....	16	9	25	11,723	27,050	38,773
Maine.....	5	6	11	4,048	25,690	29,738
New Hampshire.....	—	1	1	—	500	500
Vermont.....	3	—	3	542	—	542
Massachusetts.....	8	—	8	7,133	—	7,133
Rhode Island.....	—	1	1	—	600	600
Connecticut.....	—	1	1	—	260	260
<b>MIDDLE ATLANTIC</b> .....	195	172	367	84,031	71,509	155,450
New York.....	52	27	79	24,418	12,149	36,567
New Jersey.....	27	2	29	15,550	184	15,734
Delaware.....	—	—	—	—	—	—
Pennsylvania.....	99	130	229	38,064	48,298	86,362
Maryland.....	14	5	17	2,445	5,084	7,529
District of Columbia.....	3	10	13	3,554	5,795	9,349
<b>NORTH CENTRAL</b> .....	263	287	550	176,317	153,064	329,381
Michigan.....	50	32	82	141,010	21,590	162,600
Wisconsin.....	17	61	78	1,948	3,623	5,571
Illinois.....	121	89	210	18,640	12,302	30,942
Indiana.....	35	53	88	9,209	4,038	13,247
Ohio.....	40	52	92	5,509	111,511	117,020
<b>SOUTHERN MOUNTAIN</b> .....	77	60	137	26,205	8,569	34,774
West Virginia.....	25	19	44	4,900	3,046	7,946
Virginia.....	14	6	20	1,374	3,496	4,870
Kentucky.....	19	16	35	5,639	1,137	6,776
Tennessee.....	19	19	38	14,292	891	15,183
<b>SOUTHEASTERN</b> .....	70	203	273	11,434	21,606	33,040
North Carolina.....	18	24	42	3,928	3,604	7,532
South Carolina.....	13	11	24	3,267	3,060	6,327
Georgia.....	8	42	50	280	2,212	2,492
Florida.....	11	63	74	1,766	4,553	6,319
Alabama.....	12	41	53	426	3,763	4,189
Mississippi.....	8	22	30	1,768	4,414	6,182
<b>SOUTHWESTERN</b> .....	67	63	130	6,436	42,188	48,624
Louisiana.....	3	17	20	225	31,514	31,739
Texas.....	32	2	34	4,332	650	4,982
Arkansas.....	15	22	37	872	9,648	10,520
Oklahoma.....	17	22	39	1,007	375	1,382
<b>WESTERN GRADY</b> .....	193	233	426	17,171	19,492	36,663
Minnesota.....	21	43	64	1,022	3,052	4,074
North Dakota.....	18	2	20	1,909	14	1,923
South Dakota.....	19	26	45	702	1,003	1,705
Iowa.....	70	29	99	7,381	7,031	14,412
Nebraska.....	14	39	53	725	1,298	2,023
Missouri.....	30	45	75	3,950	5,745	9,695
Kansas.....	21	49	70	1,481	1,350	2,831
<b>ROCKY MOUNTAIN</b> .....	31	19	50	2,473	1,864	4,337
Montana.....	4	4	8	237	436	673
Idaho.....	7	—	7	757	—	757
Wyoming.....	—	4	4	—	138	138
Colorado.....	16	1	17	1,002	54	1,056
New Mexico.....	—	1	1	—	19	19
Arizona.....	2	4	6	147	167	314
Utah.....	1	5	6	40	1,050	1,090
Nevada.....	1	—	1	290	—	290
<b>PACIFIC COAST</b> .....	42	10	52	8,697	8,687	17,384
Washington.....	10	6	16	1,392	5,385	6,777
Oregon.....	11	—	11	1,167	—	1,167
California.....	21	4	25	6,138	3,302	9,440
<b>UNITED STATES</b> .....	954	1,056	2,010	344,487	354,029	698,516

<sup>a</sup> Compiled from *RFC Release No. P-1,008*, May 21, 1934. Exclusive of loans in the amount of \$72,764,496 to mortgage loan companies for banks.

<sup>b</sup> Because of rounding the state totals within the regions do not quite agree with the regional totals.



deposits involved in all suspensions.<sup>19</sup> Approximately 4,200 banks remained closed after the bank holiday, of which about 75 per cent were state institutions. These closed state banks held about 55 per cent of the restricted deposits. Obviously, therefore, closed state institutions have not received their proportionate share of RFC funds.

The blame for this condition should not be laid on the Corporation, however. National institutions have benefited relatively more because of the possibility of close co-operation with the Comptroller's office and because of the relatively greater difficulty of securing co-operation from 48 state supervisors. Moreover, Congress passed legislation authorizing liquidators of closed national banks to take full advantage of this RFC service at the time the Corporation was established. On the other hand, state legislatures were naturally slower in doing so, and in some states court decisions were necessary to determine the right of closed state banks to borrow.<sup>20</sup>

Since the establishment of the Deposit Liquidation Division in October 1933 state banks have been receiving a much greater share of the funds than they did before. From November 1933 to February 1934, 614 state and 388 national bank receivers or conservators were granted loans. The amount which went to state banks was 144 million dollars, while closed national banks received only 70 million.<sup>21</sup> In Pennsylvania, 87 state banks were authorized to borrow \$21,899,507, and 47 national banks \$13,315,325. In Ohio 38 state banks were authorized \$30,396,753 and 19 national banks \$3,280,768, and

<sup>19</sup> *Federal Reserve Bulletin*, March 1933, p. 200.

<sup>20</sup> See pp. 164-66.

<sup>21</sup> Compiled from *RFC Reports to Congress*, November 1933 to February 1934.

in Michigan 45 state banks were authorized \$10,933,827 and 23 national banks \$14,072,655. In eight states closed state banks received no loans in this period. Of these states, however, only New Jersey had a large number of such institutions. In the same number of states no closed national banks received funds during this period. There were three states which received no funds for either national or state banks.

#### V. MARGIN REQUIREMENTS AND DELAY

Considerable criticism has been directed against the RFC on the ground that the total volume of its loans to closed banks is very low, as compared with the present value of assets against which loans could be made. Objections of this nature were particularly strong from Pennsylvania. Early in 1934 Secretary Gordon of the State Banking Department announced that application had been made for loans totalling 85.2 million dollars, for aid in the liquidation of 136 closed state banks. Two million depositors were to be benefited. Banks suspending as early as 1931 were included. Loan applications for 48 institutions had been approved, but no disbursements had been made.<sup>22</sup>

Previously, in reply to criticism from the State Legislature regarding liquidation delays, Secretary Gordon had put the blame on the RFC, charging that it wanted a "mortgage on the state with a fence around it," citing one closed institution with appraised assets of \$13,154,000 on which the Corporation offered to lend only \$773,000. This would have provided only a small payment to depositors, and would have tied up all assets. Furthermore, he stated, RFC aid at the time was favoring banks closed since January 1, 1933, of which there were only 16 in the state of Pennsylvania, of which

<sup>22</sup> *American Banker*, Feb. 3, 1934.

number 15 had not yet been placed in receivership.

The Philadelphia office of the Deposit Liquidation Division almost immediately announced a more liberal policy. It admitted that it had been approving loans only up to about 40 per cent of the value of collateral offered, far less than the ratio indicated by announcements made at the time the Division was organized, but stated that it would thereafter approve advances up to 65 per cent of the value of collateral. In addition, extra clerical help was hired to speed up approval of applications.<sup>23</sup>

The RFC made three other concessions designed to facilitate closed bank loans in Pennsylvania. The requirements that certificates of title accompany smaller real estate loans, and that authorizing resolutions be passed by the directors of corporations whose notes were among the collateral, were waived in certain cases, and authority was given the State Banking Department to continue liquidation of the collateral. The first of these was of considerable importance. In some banks real estate loans comprised 90 per cent of the assets. Secretary Gordon estimated that months of work and the expenditure of \$250,000 would have been necessary had certificates of title been required in all cases.<sup>24</sup>

The difficulties between the RFC and the Pennsylvania Banking Department have apparently been duplicated elsewhere. The Committee for the Nation makes the charge that in numerous cases excessive collateral has been demanded for loans.<sup>25</sup> But the Corporation made a strenuous effort to lend as much as possible for the relief of depositors in the two large Detroit institutions after their closing. In the case of the First National

<sup>23</sup> The same, Dec. 11, 1933.

<sup>24</sup> The same, Feb. 21, 1934.

<sup>25</sup> *Why Deflation Must Be Stopped*, p. 7.

Bank, which had over 400 million dollars in deposits, it was provided by law that no loan could amount to more than  $2\frac{5}{8}$  per cent of the Corporation's authorized capital and bonded indebtedness.<sup>26</sup> This prevented a loan at the time of the bank holiday of more than about 99 million dollars, and some reduction had to be made in this amount because of loans already outstanding to units of the First National's group.<sup>27</sup> The special committee of the RFC working in Detroit approved a loan of 90 million dollars on collateral having a face value between 150 and 160 million dollars. A member of this committee later testified that the valuations made were too liberal. Loan valuations as high as 85 and 90 per cent of face value were placed on real estate mortgages. However, in this case, because the size of the loan was limited, only the best of the assets were being selected. The Corporation did not, as it did in other instances, take all the assets as collateral.<sup>28</sup>

Assets of the Guardian National, with a face value of \$65,990,109, were given a loan value of \$37,555,631. Although the liquidating value of these assets must have been considerably below their face value, the Corporation agreed to lend almost 60 per cent of the latter.<sup>29</sup>

As of December 19, 1933 the RFC had granted loans of \$80,382,000 to 15 units of the Guardian Detroit Union Group; over a fourth of this amount had been authorized before the bank holiday. Of the amount authorized \$10,273,204 had been cancelled, \$59,472,236 disbursed, and \$14,377,393 repaid. On loans actually made interest in the amount of \$251,823 had been paid. The face value of collateral posted for these loans was

<sup>26</sup> 47 Stat. L. 714.

<sup>27</sup> 73 Cong. 2 sess., *Stock Exchange Practices*, Hearings on S. res. 84 before Senate Committee on Banking and Currency, p. 4743.

<sup>28</sup> The same, p. 4750.

<sup>29</sup> The same, p. 4752.

\$147,239,849.<sup>30</sup> Authorizations amounting to nearly 55 per cent of this total indicate a fairly liberal margin allowance.

The situation in Detroit seems to have been handled with extreme liberality. This is substantiated by the testimony of the chief national bank examiner for the Fourth Federal Reserve District that the First National, at least, was in a decidedly frozen, if not extremely unsound, condition.<sup>31</sup>

Margin requirements for other closed bank loans were undoubtedly high. High margin may have been demanded in the earlier loans in order to keep the total amount within available funds. Furthermore, the Corporation tended to discourage loans to banks suspending prior to 1933. Pressure is still being exerted, however, to increase the total.

RFC officials have frequently reiterated statements made at the inauguration of the campaign of the Deposit Liquidation Division that delay in making advances to closed banks would be occasioned by laxity on the part of receivers and supervisory officials. Assurance has been given that the RFC will not replace receivers<sup>32</sup> who apparently did not apply for loans for fear that there would no longer be need for their services. There has been much delay, however, for which receivers are not responsible. Appraisals must be made, and loans must be approved by the local and the head office of the Corporation, as well as by bank supervisors and the courts. Disagreements between receivers, depositors' committees, and RFC officials as to the amount and terms of loans have held up disbursements and, finally, the uncertain status of numerous institutions under conservators has prevented

<sup>30</sup> The same, pp. 4756-57.

<sup>31</sup> The same, pp. 5769-70.

<sup>32</sup> For example, in the address by Chairman Merriam of the Deposit Liquidation Board over Columbia Broadcasting System, Dec. 21, 1933.

commitments. Until it has been definitely decided whether they are to be reorganized or liquidated, no funds can be paid depositors, and the terms and amount of the loan usually must also await such a decision.

Chairman Jones has estimated that 800 or 900 closed banks have not applied to the RFC for assistance.<sup>33</sup> Many of these have been in liquidation for a number of years and the value of remaining assets does not justify a loan. Some state laws still prohibit acceptance of the RFC aid, and at least one state supervisor feels that he can do as well without loans as with them.<sup>34</sup> The assets of some institutions have been such that liquidation could be comparatively rapid and no pressing need for loans existed. Between the bank holiday and May 9, 1934, closed national banks paid out \$475,806,742, of which sum only \$123,994,380 came from the RFC.<sup>35</sup>

It has been estimated by Chairman Jones that banks now closed will eventually release, with RFC aid, 65 per cent of the deposits on the average.<sup>36</sup> If this ratio of return to depositors is accomplished, it will indicate that the banks left closed by the holiday were in considerably better shape than those which suspended in previous years.

#### VI. AGITATION FOR THE PAY-OFF

Dissatisfaction with the results of the RFC campaign to liquefy frozen bank deposits has been expressed and a concerted effort to require the Federal Treasury to pay off part or all of these deposits, without regard to the value of remaining assets, has been made. Proposals for this purpose are based on the assumptions that the gov-

<sup>33</sup> *New York Times*, May 22, 1934.

<sup>34</sup> *American Banker*, Apr. 23, 1934.

<sup>35</sup> Address of Comptroller O'Connor to the Oklahoma Bankers' Association, Tulsa, Okla., May 9, 1934.

<sup>36</sup> *New York Times*, May 22, 1934.

ernment has a moral obligation to bank depositors, and that the pay-off would restore a much needed volume of purchasing power.

Representative Clarence J. McLeod of Michigan is the chief author of these proposals in Congress.<sup>87</sup> Bills introduced by him have occasioned legislative snarls such as have seldom been seen. The original McLeod bill was introduced on April 13, 1933, soon after the holiday, and made it mandatory that the RFC loan 70 per cent on the book value of the assets of the two large Detroit banks, and other closed national institutions. In addition, assets were to be held for as long as seven years, and interest on both the Corporation's loans and on the assets was to be reduced to 4 per cent.<sup>88</sup> No action was taken on this bill.

Other bills were introduced by Representative McLeod in the following session of Congress. H. R. 7908 provided for the purchase of all assets of closed national banks at a price sufficient to pay off all depositors in full, and for a liquidating period of ten years. H.R. 8479 was similarly worded. Later amendments included state member banks, and much agitation arose for the inclusion of all state banks.

Several pay-off bills were also introduced in the Senate. S. 2949, by Senator Thomas of Oklahoma, was basically the same as H.R. 7908. S. 2968, introduced by Senator Pittman, included only banks to which the RFC had lent prior to their suspension, and provided only a 50 per cent pay-off. Receivers were to be discharged, and final liquidation carried out directly by the RFC.<sup>89</sup>

<sup>87</sup> It is interesting to note that representatives from Michigan and Ohio, in which states several of the largest banks were closed, have been the most active sponsors of the pay-off plan.

<sup>88</sup> 73 Cong., H.R. 4974.

<sup>89</sup> Other bills providing for the partial or complete pay-off of bank

The McLeod bill proved to be one of the greatest bones of contention before the second session of the 73d Congress. It was strongly supported by the Hearst newspapers, which made the pay-off plan a leading issue throughout the country. The governors of several states declared in favor of it, and a national committee was formed to lobby for its passage.

The President was reported as being opposed to the pay-off plan, although Speaker Rainey, majority leader Byrns, and Chairman Steagall of the Banking and Currency Committee in the House were said to favor it in some modified form. Party lines were split wide on the issue. On May 16, 1934 of the 119 members of the House who had signed a petition to force the bill to a vote, 53 were Democrats, 61 were Republicans, and 5 Farmer-Laborites.

The widespread feeling that the federal government was morally responsible for the plight of depositors in closed banks was based on two facts: first, government officials had permitted insolvent banks to continue in operation, and second, in some instances they had urged depositors not to withdraw their funds. The Comptroller's office, during 1931 and 1932, instructed its examiners to follow a lenient policy in the valuation of bank assets.<sup>40</sup> This practice permitted banks to publish statements which did not give true pictures of their condition.

Furthermore, government officials, from the President on down, urged depositors not to withdraw currency. The Mississippi Supreme Court, in a decision

---

depositors, introduced in the 2d session of the 73d Congress, were H.R. 8343, 8543, 9018, 9040, 9043, 9125, 9203, and 9255.

<sup>40</sup> 73 Cong. 1 sess., S. res. 56; 72 Cong. 2 sess., S. res. 84; *Stock Exchange Practices*, Hearings before Senate Committee on Banking and Currency, p. 5831.



handed down on April 30, 1934, held that the St. Louis Federal Reserve Bank induced depositors of a national bank in that state to continue to do business with it when the Reserve Bank knew it to be insolvent. RFC officials reassured depositors of certain institutions to which the loans were made, and which later failed.<sup>41</sup>

It is probably true that these assurances and exhortations not to hoard had considerable effect on bank depositors. Certainly in specific cases runs were halted by such tactics. Nevertheless, although many banks did fail subsequently, depositors on the whole were certainly none the worse off by reason of their forbearance. Had the banks closed then, instead of in March 1933, virtually the same losses would have been taken. If such statements had not been made, the holiday might have come sooner, and the situation might have been cleaned up some months before it was. Delayed suspension gave certain depositors more time to withdraw funds at the expense of the rest, but the total losses on deposits certainly were affected little or not at all by the attempts of the Administration to restore confidence. Even if this were not true, there is little justification for adding to the Treasury deficit, and imposing additional burdens on the taxpayer, to correct the mistakes of a former Administration.

The executive branch of the federal government had no legal authority to commit the Treasury to a future obligation of this character, and at the time there was no thought of doing so. The pay-off would require both authorization under general law and a specific appropriation by Congress. Persons who have lost money through bank failures, it is urged, are in special need and would be

<sup>41</sup> See p. 156.

greatly benefited. But a complete pay-off would benefit chiefly the owners of large deposits. According to Representative Patman, in closed national banks accounts of over \$5,000 include 39 per cent of total deposits, but only 1.5 per cent of the number of accounts.<sup>42</sup> A relatively few large depositors, then, would receive about two-fifths of the funds from such a scheme.

While there might be more justification for paying only small accounts, government funds disbursed for relief purposes should be distributed solely on the basis of proved need. The ownership of a bank account, no matter how small, is probably an indication that the owner is not in the greatest need. More deserving cases would be aided if relief was disbursed to those who do not have bank accounts, rather than to those who do. Many depositors are frequently very slow in claiming payments by receivers, indicating no general dire need among the owners of frozen deposits. Moreover, a large proportion of relief funds are spent on the basis of securing at least some socially beneficial labor in return. The pay-off plan would obviously have no such effect.

It is further urged that depositors were under the impression that the government stood back of and virtually guaranteed Federal Reserve member banks.<sup>43</sup> But banks have been under federal supervision since the Civil War and it has never been recognized that the government has any responsibility for deposits.

Adoption of the pay-off plan would certainly mean heavy losses to the Treasury, although its proponents do not think so. They have confidence in such a revival of prosperity that the assets taken over by the Treas-

<sup>42</sup> *Cong. Record*, Apr. 26, 1934, p. 7708.

<sup>43</sup> *Cong. Record*, Mar. 21, 1934, p. 5146.

ury or the RFC would ultimately be worth their face value. In the past, however, banks failing even in prosperous times have been liquidated at a considerable loss to depositors. During the years 1921-30 the return to depositors in failed national banks was less than 50 per cent.<sup>44</sup> Many of the assets held by closed banks at present are completely worthless, and always will be so. Notes of bankrupts, for instance, cannot undergo future appreciation. The last dregs of assets liquidated by closed banks, in many cases all that would be left to reimburse a Treasury pay-off, are frequently not worth one cent on the dollar.

The Secretary of the Treasury has estimated that the pay-off of deposits of \$2,500 or less in banks closing since January 1, 1930, which was provided by the McLeod bill as reported by the House Banking Committee, would involve a gross disbursement of \$977,804,000 for member, and \$829,495,000 for non-member banks. The assets to be taken over by the Treasury under such a plan have a value of but \$408,000,000 for member and but \$315,989,000 for non-member banks. The net loss to the Treasury, then, would be \$1,083,211,000.<sup>45</sup> Deposits under \$2,500 represent about 47 per cent of all deposits in closed banks,<sup>46</sup> and so if all deposits were paid off in full the cost to the taxpayer would approximate \$2,500,000,000. Inasmuch as the best assets of suspended banks have already been liquidated, the Secretary's estimate appears to be reasonable.

The agitation for the pay-off plan had some very definite effects. It called attention to some of the weaknesses of bank supervision. It led the President to request

<sup>44</sup> See p. 86.

<sup>45</sup> *Cong. Record*, May 15, 1934, p. 9089.

<sup>46</sup> The same, Apr. 26, 1934, p. 7708.

the RFC to extend all possible aid to depositors, after which the Corporation announced its intention to reappraise closed bank assets and to lend up to 75 per cent of their value;<sup>47</sup> and it led to legislative proposals for increasing the financial strength of the FDIC.

<sup>47</sup> Compare p. 178.

## CHAPTER XIII

### RFC CAPITAL INVESTMENTS IN BANKS

Most of the banks closed by the bank holiday and not permitted to reopen immediately thereafter had some impairment of capital. It was decided that as many of these institutions should be reopened as was feasible. Impairment of deposits could be taken care of by waivers,<sup>1</sup> but the Comptroller refused to permit additional waivers to restore capital. In this he was upheld by the courts.<sup>2</sup> It was realized that under prevailing conditions neither the old stockholders nor the general public could be expected to provide voluntarily all the funds necessary to restore the capital structure of these banks. Later, banks which had been licensed without reorganization were urged to expand their capital in order that they might expand their credit advances, and in numerous cases state banks found it necessary to strengthen their capital structures before they could be admitted to the Federal Deposit Insurance Corporation.

#### I. PROCEDURE

The Emergency Banking Act provided that any national bank might, with the approval of the Comptroller and of its shareholders, issue preferred stock.<sup>3</sup> An amendment of June 15, 1933 permitted the issuance of more than one class of such stock.<sup>4</sup> The act, and an amendment of May 24, 1933, also provided that if the Secretary of the Treasury, in connection with the organization or reorganization of any bank found it to be in

<sup>1</sup> See pp. 127-40.

<sup>2</sup> *Cooper v. Woodin*, Supreme Court of the District of Columbia, Equity No. 56143, decided Nov. 29, 1933.

<sup>3</sup> 48 Stat. L. 5.

<sup>4</sup> 48 Stat. L. 147.

need of capital, he could request the RFC to subscribe for preferred stock in such institution. However, subscriptions for preferred stock carrying double liability were barred. The Corporation was empowered to sell these obligations in the open market, and to increase its own obligations to an amount sufficient to carry out these provisions.<sup>5</sup>

This act further provided that the owners of preferred stock issued by any national bank should be entitled to cumulative dividends of not more than 6 per cent, and that they should have such voting and conversion rights and control of management as might be provided in the articles of association upon the approval of the Comptroller. Such stock was specifically exempted from double liability.<sup>6</sup> Under the act no dividends may be paid on common stock unless all preferred dividends have been paid, and in case of liquidation holders of preferred stock have a prior lien over holders of common, which lien includes accumulated dividends.<sup>7</sup>

*State legislation.* At the time of the enactment of the Emergency Banking Act, state banks were authorized to issue only common stock. At the earnest insistence of the state banking authorities, the state legislatures almost universally passed laws permitting the issuance of obligations in conformity with the Emergency Banking Act. To provide for states in which constitutional provisions required all bank stock to carry double liability, the federal statute was amended to permit the RFC to purchase capital notes and debentures.<sup>8</sup>

The authorization of the sale of capital obligations to the RFC by state banks is in some cases implied in acts

<sup>5</sup> 48 Stat. L. 6, as amended by 48 Stat. L. 21.

<sup>6</sup> 48 Stat. L. 5, as amended by 48 Stat. L. 148.

<sup>7</sup> 48 Stat. L. 5.

<sup>8</sup> See, for example, *Annual Report of the Superintendent of Banks of New York*, 1933, pp. 26 and 27.

permitting such institutions to take advantage of all federal laws for the relief of banks.<sup>9</sup> Specific authorization usually provides that the sale must be approved by the stockholders and supervisor, and that the stock shall be of the sort that the RFC will purchase.<sup>10</sup> In Missouri, doubtful assets set aside in the course of a reorganization in which new capital is secured through the sale of capital notes may be held in trust for the benefit of the owners of such notes. Where the capital impairment was caused by depreciation of certain assets, any appreciation of the same may be set aside for the note holders.<sup>11</sup>

By March 9, 1934 the status of state laws on the issuance of preferred stock, capital notes, and debentures was as follows:<sup>12</sup>

Preferred stock exempt from double liability permitted (26 states)	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, Wyoming.
Preferred stock exempt from double liability prohibited (22 states)	Arizona, Delaware, Georgia, Illinois, Indiana, Maryland, Minnesota, Mississippi, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin.

<sup>9</sup> See Ore. Laws, 1933, Chap. 227, Sec. 21.

<sup>10</sup> For examples of state laws on this subject see: N.Y. Banking Law, Secs. 106-09, 185-93, and 292-98; Calif. Bank Act, Secs. 135(d-e), (Laws, 1933, Chap. 32, Sec. 1, Mar. 14, 1933); Mass. Laws, 1933, Chap. 112, Secs. 6-8; N.C. Banking Laws, Secs. 264(g-i) (Laws, 1933, Chap. 155, Secs. 7-9); Ohio General Code, Sec. 710-126a (H.B. 661, approved Mar. 31, 1933); Vt. H.293, effective Mar. 24, 1933.

<sup>11</sup> 57 Gen. Assem., extra sess., H.B. 92.

<sup>12</sup> From Prentice-Hall, *Federal Bank Service*.

RFC CAPITAL INVESTMENTS IN BANKS 191

Capital notes and debentures permitted (30 states)	Arizona, Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, <sup>18</sup> Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin.
Capital notes and debentures prohibited (12 states)	Alabama, California, Colorado, Florida, Kansas, Kentucky, New Hampshire, New Jersey, Oklahoma, Tennessee, Virginia, Wyoming.
No decision on capital notes and debentures (6 states)	Massachusetts, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina.

It will be seen that Oklahoma is the only state in which state banks definitely may not take advantage of RFC purchase of their capital obligations. In Oregon and South Carolina the right to do so has not yet been determined. In some states the power to issue capital notes and debentures has been determined by rulings of the attorney-generals or banking supervisors.

*Provisions of purchase.* Purchases of preferred stock were made through the RFC agencies. The Corporation required that the "sound value" of the assets of any applying bank must equal its "deposits and other liabilities," with a reasonable margin of protection for preferred stock represented by common stock or junior preferred obligations. Applying banks were examined before the Corporation made any commitments. The RFC stated that anticipated net earnings must be adequate to provide dividends on the new issues. Inasmuch as capital notes and debentures carry no control of manage-

<sup>18</sup> Savings banks.



ment through voting rights, assurance was required from banks selling these obligations to the RFC that the management and salaries paid officers, directors, and employees would be satisfactory. Loans secured by preferred stock were to be made only to third parties who were sound credit risks, and it was announced that usually other collateral would have to be posted to secure such loans. In such cases, also, the RFC required assurances in regard to management and salaries.<sup>14</sup> Applying banks agreed to submit to examination as long as any of their obligations were owned by the RFC.<sup>15</sup> Similar regulations govern loans on preferred stock.<sup>16</sup>

The RFC originally required a rate of interest of 5 per cent upon capital obligations purchased, unless they were paid off within three years, in which case 1 per cent was refunded. On April 1, 1934 the rate became 4 per cent for five years and 5 per cent thereafter. As of February 1, 1935 it will be reduced to 3.5 per cent for five years and 4 per cent thereafter.<sup>17</sup>

Two classes of preferred obligations have been issued where common capital was impaired to such an extent that there was not a sufficient margin of protection for a single class of preferred. In such cases the second preferred has been sold to the public, or, in some reorganizations, exchanged for restricted deposits. It usually bears higher cumulative dividends than the first preferred, and is to be retired by call or purchase only after all first preferred shares are retired.<sup>18</sup>

An example of the use of second preferred stock was offered by the plan for the reorganization of the Eliza-

<sup>14</sup> *RFC Circular No. 6*, September 1933.

<sup>15</sup> *RFC Form L-103*, revised Sept. 8, 1933.

<sup>16</sup> *RFC Form L-105*.

<sup>17</sup> Information obtained from RFC.

<sup>18</sup> *RFC Form P.S. 3*, revised Mar. 26, 1934.

both Trust Company. The RFC was to purchase \$500,000 of first preferred. Half of the deposits were to be made available in cash and the remainder converted into second preferred at \$10 par for \$40 restricted deposits, retirable at \$20 a share.<sup>19</sup>

Regulations governing the issue of income debentures by state banks are essentially similar to those covering preferred stock issues. Interest is a first lien on earnings, and is cumulative. Retirement is prohibited unless all capital funds and debts of the bank exceed one-seventh of deposit liability. If default is made in observance of any provisions of the debentures, the holders of one-fourth thereof may declare the principal due and payable. In such case the RFC may assume practical control of the bank.<sup>20</sup>

Capital notes are issued in series maturing over a period of years, subject to prior redemption. Otherwise they are subject to essentially the same provisions as are debentures.<sup>21</sup> In some states, capital notes and debentures may be issued in more than one class.

In cases of reorganization the RFC has usually furnished half the new capital by purchasing preferred stock or similar obligations. In some cases, however, it has purchased over half of the capital, and in addition has increased the liquidity of the reopened institution by advancing cash on its slower assets.

*The Non-Member Preferred Stock Division.* An organization was set up within the RFC to facilitate the capital reorganization of banks throughout the country. At the suggestion of the President, the Non-Member Preferred Stock Division was established October 28,

<sup>19</sup> *American Banker*, Feb. 28, 1934.

<sup>20</sup> *RFC Form P.S. 2*, revised Mar. 26, 1934.

<sup>21</sup> *RFC Form C.N. 1*, revised Dec. 28, 1933.

1933, consisting of the Governor of the Federal Reserve Board, the Under-Secretary of the Treasury, the Director of the Budget, the Comptroller of the Currency, the Chairman of the FDIC, a director of the RFC, and two others.<sup>22</sup> Supervisors were appointed for each Federal Reserve district, and others for each state. Special committees, at least one in every state, were named to solicit all non-member banks. Supervisors and committees were instructed to co-operate to the fullest extent with state banking authorities and FDIC supervisors.

## II. AMOUNT OF PURCHASES

RFC commitments for capital obligations of banks did not assume large amounts until December 1933. In that month it authorized the purchase of more preferred stock, capital notes, and debentures than in the entire preceding nine months during which such purchases had been authorized.<sup>23</sup>

Approximately 40 per cent of the authorizations were made in the first quarter of 1934. But this phase of the Corporation's activities has passed the peak of its activity; authorizations for the second quarter of 1934 were only a fourth of those for the first quarter. Chairman Jones late in April stated that the RFC "would like to invest another two or three or four hundred million in the capital of banks."<sup>24</sup> It is doubtful, however, if the banks will offer this additional amount for sale.

Disbursements as of June 30, 1934 amounted to 80 per cent of authorizations. The spread occurs chiefly because the actual consummation of each sale of preferred stock must await approval by the common stockholders, and of capital notes and debentures by either stockhold-

<sup>22</sup> Letter from the President to Chairman Jones of the RFC, Oct. 23, 1933, and attached statement.

<sup>23</sup> *RFC Report*, fourth quarter, 1933.

<sup>24</sup> Speech before the East Texas Chamber of Commerce, Texarkana, Tex., Apr. 23, 1934.

RFC CAPITAL INVESTMENTS IN BANKS 195

ers or directors, who usually do not approve an issue until it has been authorized by the RFC.

Contrary to experience with current loans to banks, repayments of preferred obligations have so far been small. Obviously, in view of the purposes of such is-

RFC PURCHASES OF CAPITAL OBLIGATIONS OF BANKS  
 March 1933-June 1934<sup>a</sup>  
 Cumulative Quarterly Totals  
 (Dollar items are in thousands)

Quarter	Authorized Purchases		Disbursements	Repay-ments	Balance Outstanding
	Number of Authori-zations <sup>b</sup>	Amount <sup>c</sup>			
First, 1933.....	6	\$ 14,933	\$ 12,750	—	\$ 12,750
Second.....	50	47,419	43,468	\$ 5	43,463
Third.....	144	70,073	63,107	12	63,095
Fourth.....	2,345	496,866	264,346	158	264,188
First, 1934.....	5,699	932,623	593,577	538	593,039
Second.....	6,831	1,047,659	817,303	2,596	814,707

<sup>a</sup> RFC Reports (quarterly).

<sup>b</sup> Includes 868 loans to institutions and individuals on preferred stock of 198 banks at end of second quarter of 1934.

<sup>c</sup> Net: Excludes \$48,637,000 cancelled or withdrawn at the end of second quarter of 1934.

sues, large reductions in the amount outstanding are not to be expected for some time to come. The advance of one per cent in the interest rate at the end of five years will prove an incentive, however, to effect retirements before that time. The table on page 196 presents the status of the various types of issues as of June 30, 1934.

No data are available which would show the ratio of RFC capital investments to total capital for the 5,952 banks which have sold capital issues to the RFC. We do know, however, that all except a negligible amount<sup>25</sup> of

<sup>25</sup> The RFC has a working agreement with the FDIC that it will not purchase capital issues of banks which are not members of the FDIC.

196 *CLOSED AND DISTRESSED BANKS*

RFC PURCHASES OF CAPITAL OBLIGATIONS OF BANKS, JUNE 30, 1934\*  
Classified by Type of Obligation  
(Dollar items are in thousands)

Type of Obligation	Authorized Purchases		Cancel- lations or With- drawals	Disburse- ments	Repay- ments	Balance Out- standing
	Number of Banks	Amount				
Preferred stock..	3,126	\$ 625,051	\$31,789	\$498,518	\$ 412	\$498,106
Capital notes and debentures....	2,628	393,374	13,124	296,492	1,244	295,248
Loans on pre- ferred stock...	198	29,234	3,723	22,293	940	21,353
Total.....	5,952	\$1,047,659	\$48,636	\$817,303	\$2,596	\$814,707

\* RFC Report, second quarter 1934 (mimeographed).

RFC holdings as of June 30, 1934 were in banks which were members of the FDIC. A comparison of figures for these two groups shows that the RFC on this date owned 23.6 per cent of the capital stock, notes, and debentures of insured banks and 12.5 per cent of the total capital funds of insured banks. Data and computations covering 13,867 insured banks are as follows:<sup>28</sup>

Capital stock, notes, and debentures .....	\$3,310,564,000
Total capital funds .....	6,230,095,000
Capital issues (disbursed) held by RFC .....	780,000,000
RFC holdings as percentage of capital issues ..	23.6
RFC holdings as percentage of total capital funds .....	12.5

RFC funds authorized and not as yet disbursed, when actually paid out, will bring RFC holdings of capital issues up to 29 per cent of the total. It must be noted, how-

<sup>28</sup> Data are from *FDIC Release*, Sept. 6, 1934. The difference between 780 million dollars of RFC holdings shown here and the total of 814 millions shown in the table above is the FDIC's estimate of RFC issues in the hands of mutual savings banks.

## RFC CAPITAL INVESTMENTS IN BANKS 197

### RFC PURCHASES OF CAPITAL OBLIGATIONS OF BANKS FEBRUARY 2, 1932 TO JUNE 30, 1934<sup>a</sup> Classified by Regions and States (In thousands of dollars)

Region and State	Authorized	Disbursed
<b>NEW ENGLAND.....</b>	<b>\$ 54,008</b>	<b>\$ 38,147</b>
Maine.....	10,515	4,325
New Hampshire.....	1,338	298
Vermont.....	14,795	13,970
Massachusetts.....	18,605	13,451
Rhode Island.....	800	350
Connecticut.....	7,955	5,753
<b>MIDDLE ATLANTIC.....</b>	<b>449,498</b>	<b>324,944</b>
New York.....	330,525	250,662
New Jersey.....	44,888	27,184
Delaware.....	2,630	520
Pennsylvania.....	43,670	25,003
Maryland.....	9,085	6,325
District of Columbia <sup>b</sup> .....	17,700	15,250
<b>NORTH CENTRAL.....</b>	<b>250,424</b>	<b>215,912</b>
Michigan.....	38,641	32,474
Wisconsin.....	21,568	15,117
Illinois.....	91,534	86,256
Indiana.....	16,525	13,212
Ohio.....	82,156	68,853
<b>SOUTHERN MOUNTAIN.....</b>	<b>37,916</b>	<b>27,744</b>
West Virginia.....	5,131	4,361
Virginia.....	11,633	8,356
Kentucky.....	10,055	6,793
Tennessee.....	11,097	8,234
<b>SOUTHEASTERN.....</b>	<b>39,654</b>	<b>33,787</b>
North Carolina.....	7,405	5,220
South Carolina.....	2,204	1,994
Georgia.....	5,595	4,330
Florida.....	1,394	999
Alabama.....	14,446	13,894
Mississippi.....	8,590	7,350
<b>SOUTHWESTERN.....</b>	<b>58,232</b>	<b>47,742</b>
Louisiana.....	9,846	8,801
Texas.....	32,962	26,743
Arkansas.....	4,765	3,530
Oklahoma.....	10,659	8,648
<b>WESTERN GRAIN.....</b>	<b>73,772</b>	<b>60,972</b>
Minnesota.....	17,076	15,279
North Dakota.....	4,107	3,299
South Dakota.....	4,405	4,019
Iowa.....	11,433	8,656
Nebraska.....	8,484	7,242
Missouri.....	23,702	18,786
<b>KANSAS.....</b>	<b>4,565</b>	<b>3,691</b>
<b>ROCKY MOUNTAIN.....</b>	<b>18,135</b>	<b>14,718</b>
Montana.....	3,658	2,528
Idaho.....	1,810	1,575
Wyoming.....	1,445	895
Colorado.....	4,635	4,075
New Mexico.....	952	590
Arizona.....	1,190	940
Utah.....	4,265	3,965
Nevada.....	190	150
<b>PACIFIC COAST.....</b>	<b>65,374</b>	<b>52,651</b>
Washington.....	6,136	3,768
Oregon.....	1,990	1,527
California.....	57,248	46,756
<b>UNITED STATES.....</b>	<b>1,045,993</b>	<b>816,017</b>

<sup>a</sup> RFC Report, second quarter, 1934 (mimeographed).

<sup>b</sup> Includes \$10,000,000 authorized and disbursed to the Export-Import Bank of Washington, and \$2,500,000 authorized and disbursed to the Second Export-Import Bank of Washington, D. C.

ever, that the disbursement of these authorizations rests on fulfillment of certain conditions, among which may be the contribution of capital by local interests. Hence the ratio of authorizations to capital stock, notes, and debentures should be regarded as only approximate.

The \$70,073,000 which had been authorized by September 30, 1933 was practically all, if not all, for the purpose of recapitalizing closed institutions. The great majority of the authorizations since that date, however, have been to active banks. Probably 125 million dollars approximates the amount subscribed for the purpose of reopening closed institutions, or establishing new banks to replace those which had failed.

Most of the applications for preferred stock have been granted. Banks in every state in the union have received funds. The distribution by states is shown in the table on page 197.

### III. EFFECT ON CAPITAL STRUCTURE AND BANK CONTROL

Purchases of preferred stock by the RFC in banks throughout the nation have as important implications for the banking system of the country as any of the measures of the new Administration. Through these purchases the system has been considerably strengthened, the possibilities of credit expansion increased, and the question of partial ownership and control of banks by the government thrust sharply to the fore.

*Reorganization of closed banks.* The reorganization of institutions found to be insolvent at the termination of the bank holiday was greatly facilitated by their ability to secure capital from the RFC.<sup>27</sup> Most of the reorganized national banks sold at least half of their new capital obligations to the RFC, as did a large portion of the

<sup>27</sup> For a description of reorganization procedure, see Chaps. IX-X.

reorganized state banks. By October 25, 1933 national banks had outstanding \$75,119,000 in Class A preferred stock, practically all of which had been issued in connection with reorganizations.<sup>28</sup> Preferred stock amounting to \$4,050,000 had been issued by 14 new national banks which were reorganizations of state banks, and \$12,652,000 had been issued by 121 others which acquired the business of suspended banks.<sup>29</sup> Most of the national banks reorganized since that date, nearly 300 in number, have also sold preferred stock to the RFC.

While there is some question as to the necessity for reopening many of the banks that were reorganized, they did provide banking facilities in communities which otherwise would have been bereft of them. And while in some cases new capital was raised locally, in most an adequate capital structure was only made possible by means of RFC aid.

*Capital reorganizations of active banks.* Under the campaign to purchase capital obligations of active banks, numerous reorganizations of the capital structure of these institutions were effected. Even the banks which were supposed to be selling preferred stock merely to offer good examples to the weaker institutions took advantage of the opportunity to clean house.

For instance, the Chase National after issuing 50 million dollars in preferred stock wrote down its assets by 50 million dollars and reduced its common capital correspondingly. The National City also sold 50 million dollars preferred and wrote off 56.5 million dollars of common stock, thus effecting a net reduction in its capital. Others of the larger banks, however, apparently were in a better position, and although they sold preferred is-

<sup>28</sup> *Annual Report of the Comptroller of the Currency, 1933, p. 49.*

<sup>29</sup> *The same, p. 41.*



sues, the sales were in smaller amount and were not accompanied by charge-offs.

Fear was expressed that such write-offs would indicate that the banks making them were in a weak condition. It was apparent that many of these larger institutions were not in as good condition as had been believed, but it was also felt that these operations meant a readjustment of balance sheets to a sound basis. No indications of lack of confidence developed on the part of depositors.

Shareholders did not suffer an immediate loss either. Although both the book and par values of common stock were reduced by the charge-offs,<sup>80</sup> the market quotations were not adversely affected. What price fluctuations occurred appeared to be attributable to general market conditions.

Where it was not necessary to reduce asset values, capital subscriptions by the RFC established a wider margin of protection for the depositor. The ratio of deposits to capital has long indicated that the owners of the banks were bearing an unduly small proportion of credit risks. While deposits were less than six times capital funds for all banks in the country on June 30, 1932,<sup>81</sup> in a number of institutions the ratio was ten to one, or greater. Chairman Jones of the RFC has indicated that a ratio of seven or eight to one is considered desirable to provide a sufficient margin of safety.<sup>82</sup> Capital debentures cannot be retired unless capital funds, outstanding debentures, and other indebtedness exceed one-seventh of total deposits, or unless the retirement is approved by the state supervisor. Preferred stock and capital notes

<sup>80</sup> The par value of National City stock, for instance, was cut from \$20 to \$12.50, and its book value from \$27 to \$21 a share.

<sup>81</sup> *Annual Report of the Comptroller of the Currency*, 1933, p. 98.

<sup>82</sup> *The Bankers' Responsibility*, Address before the New York State Bankers Association, New York City, Feb. 5, 1934.

may not be retired unless the ratio of deposits to capital and indebtedness is less than a ratio variously fixed by the Corporation at from seven to one to ten to one.

The RFC assisted materially in improving the liquidity of banks applying for membership in the FDIC. The Insurance Corporation insisted upon a soundly appraised value of assets equal at least to deposit liabilities. While this regulation admitted banks with impaired capital and therefore technically insolvent, a surprising number of applicants could not meet the requirement. They qualified by selling capital obligations to the RFC. This increased their total liabilities by the same amount that assets were increased, but deposit liabilities were not altered. These operations were all important to non-member banks. The FDIC is now endeavoring to bring about at least a ten to one deposit-capital ratio among its member banks. This will be aided by means of capital subscriptions by the RFC.

The sale of capital notes and debentures raised a serious question as to whether they could be considered capital for the purpose of meeting certain minimum capital requirements. National banks are allowed to include preferred stock to meet minimum capital requirements of from \$50,000 to \$200,000, depending on the size of the community in which they are located.<sup>33</sup> In some states capital notes and debentures have been considered capital.<sup>34</sup> The Federal Reserve Board at first ruled that these obligations would not be counted toward capital requirements for membership in the Federal Reserve system.<sup>35</sup> Later, however, the Non-Member Preferred Stock Committee of the RFC and the FDIC secured a

<sup>33</sup> 48 Stat. L. 5.

<sup>34</sup> See, for example, New York Banking Board, Resolution 33, Nov. 2, 1933.

<sup>35</sup> *Federal Reserve Bulletin*, September 1933, pp. 566-68.

reversal of the Federal Reserve Board's ruling.<sup>36</sup> The act of June 1934 extending the temporary insurance fund for one year provides that for the purposes of membership in the Federal Reserve system the term capital shall include capital notes and debentures purchased by the RFC.<sup>37</sup>

While RFC purchases will thus facilitate Federal Reserve membership, serious difficulty may arise when obligations mature. Issuing banks will then be faced with a reduction in their capital, in many cases below the required minimum. Should they be unable to offset this by sales of new common stock, they will be faced with exclusion from the Reserve system, and in the case of national banks, with forfeiture of their charters. The same situation will be faced by state banks which have met minimum capital requirements by the sale of capital notes or preferred stock to the RFC.

*Preferred obligations and bank earnings.* The RFC purchases of preferred obligations have placed definite financial burdens upon a very large number of the commercial banks of the United States. If issuing banks default on two dividend payments, or fail to amortize the principal at the rate of 5 per cent per annum, the RFC has the right to assume virtual control of them.

The regulations regarding the application of net earnings of banks which have obligations to the RFC are essentially similar whether the obligation is preferred stock, capital notes, or debentures. Those covering preferred stock are summarized herewith.<sup>38</sup>

Net profits are to be determined by deducting from gross earnings (including recoveries), expenses, interest, losses, taxes, and legally required transfer to sur-

<sup>36</sup> FDIC Press Release, Nov. 20, 1933.

<sup>37</sup> 73 Cong., Public No. 362.

<sup>38</sup> RFC Form P.S.-1, revised Mar. 26, 1934.

plus, and accrued net loss from previous periods. After these deductions, net profits are to be applied in the following order:

1. To the payment of preferred stock dividends.
2. To the amortization of preferred stock 40 per cent of the remainder, if any, but not necessarily to exceed 5 per cent of the preferred issue.
3. To such other lawful purposes as may be decided upon (for instance, payment of common dividends or into the capital account).

This procedure will mean, in case a bank has 50 million dollars of preferred stock outstanding, that 1.75 million dollars must be set aside annually for dividends.\* If the proceeds of the preferred issue earn but 2 per cent, the net cost to the stockholders will be \$750,000. In addition, 2.5 million dollars must be paid from earnings into the preferred retirement fund. Thus 3.25 million dollars will be deducted from earnings before common dividends can be paid. As the preferred stock is retired, the interest burden will lessen, and the equity of the common stockholder will increase.

Unless there is a more pronounced business recovery the chances for many issuing banks to maintain sufficient earnings to meet these requirements are slim. The active national banks of the country had a net deficit for the year ending June 30, 1933 of 14.92 per cent of their common capital, or 9.08 per cent of their common capital and surplus. In 1932 their deficit was 8.91 per cent of common capital, or 4.94 per cent of common capital and surplus.<sup>30</sup>

State member banks had a net loss of 3.0 per cent

\* Computed at 3.5 per cent, the new rate which becomes effective on Feb. 1, 1935. See p. 192.

<sup>30</sup> Computed from the *Annual Report of the Comptroller of the Currency*, 1933, pp. 66 and 67.

of their common capital and surplus in the last six months of 1932, and of 2.8 per cent in the first six months of 1933. Their deductions (net loss plus dividends paid) from capital funds amounted to respectively 10.8 per cent and 9.3 per cent of surplus in these periods.<sup>40</sup>

Even during the relatively prosperous years 1926-30, 15.8 per cent of the national banks had net deficits, and an additional 11.3 per cent had net profits of less than 3 per cent.<sup>41</sup> The small national banks, in particular, showed poor earning records for these years. A fourth of those with loans and investments of less than \$500,000 showed net deficits.<sup>42</sup>

State banks have undergone a similar experience. Net deficits were shown by 30.8 per cent of all Iowa state banks during 1926-30. Of those having less than \$150,000 in loans and investments, 42.1 per cent had net deficits; with loans and investments of \$150,000-\$250,000 and \$250,000-\$500,000, proportions showing deficits were respectively 34.1 and 28.9 per cent.<sup>43</sup>

Even the stronger institutions which have sold issues to the RFC have in general had deficits in the past two years. Available earnings data show that 16 of 22 New York City banks which issued preferred stock or capital notes had net deficits in 1933.<sup>44</sup> Virtually all of these banks continued to pay dividends, thus further depleting their capital resources. The nation's largest bank, the Chase National, which has issued 50 million dollars of preferred stock, has shown a net deficit for the past three

<sup>40</sup> Computed from the *Federal Reserve Bulletin*, April 1934, pp. 257 and 259.

<sup>41</sup> *Banking Profits*, Federal Reserve Committee on Branch, Group, and Chain Banking, p. 10.

<sup>42</sup> The same, p. 98.

<sup>43</sup> The same, p. 29.

<sup>44</sup> Compiled from "Earning Trend of New York City Banks," current issues of the *American Banker*.

years. The largest bank outside of New York, the Continental-Illinois National Bank and Trust Company, had a total net deficit for 1932 and 1933 of \$87,318,903. It has also sold 50 million dollars of preferred stock. Similar examples from various parts of the country are available.

It is true that most of the deficits in bank earnings have been caused by the writing down of assets. If the decline in security values has ceased, and if business maintains its upward trend, these losses will certainly be less severe in the future. National banks had net earnings before losses and recoveries for the year ending June 30, 1933 amounting to 9.0 per cent of common capital and surplus.<sup>45</sup> State member banks, for the six months ending December 31, 1932, had net earnings before losses and recoveries of 3.9 per cent of common capital and surplus. For the succeeding six months the proportion was 4.1 per cent.<sup>46</sup>

Most of the New York City banks which have sold preferred obligations had operating earnings in 1933 more than sufficient to cover common dividends,<sup>47</sup> and the same is generally true elsewhere.

While net losses may be reduced during the next few years to the 1926-30 level, it is unlikely that earnings will be raised to that level. A large proportion of bank assets are held as cash or invested in government securities yielding, on the average, less than 3 per cent. Interest rates charged customers by banks have fallen markedly since 1930. In March of that year they averaged

<sup>45</sup> Computed from the *Annual Report of the Comptroller of the Currency*, 1933, p. 66.

<sup>46</sup> Computed from *Federal Reserve Bulletin*, April 1934, pp. 257 and 259.

<sup>47</sup> *American Banker*, Mar. 15, 1934.

5.22 per cent in New York City, 5.47 per cent in eight other Northern and Eastern cities, and 5.98 per cent in 27 Southern and Western cities.<sup>48</sup> In March 1934 they averaged only 3.31 per cent in New York, 4.52 per cent in the other Northern and Eastern cities, and 5.40 per cent in the Southern and Western cities.<sup>49</sup> These declines in earnings, however, will be partially offset by the prohibition of interest on demand deposits and the limitation of interest on time deposits to 3 per cent or less by the Banking Act of 1933, FDIC regulations, and the NRA banking code.

The proceeds of sales of stock, notes, or debentures to the RFC are available, of course, to the banks for investment. But these proceeds have not all been invested in assets which will earn the prevailing 4 per cent interest on the obligations. As of June 30, 1934, for example, \$234,814,667 of RFC debentures bearing an average rate of 2.23 per cent were held by banks.<sup>50</sup> This represented an outright gift to the Corporation of 1.77 per cent per annum on this amount. In some cases the proceeds have apparently been invested in government securities or have merely swelled cash reserves. It therefore appears that the owners of common bank stock throughout the nation are making a substantial contribution to the Federal Treasury and the operating expenses of the RFC.

In view of this situation there is serious doubt as to whether many of the banks can earn enough to meet the required payments. Numerous weak banks have been forced by circumstances to sell preferred obligations. Naturally these institutions are the very ones which are in

<sup>48</sup> *Annual Report of the Federal Reserve Board*, 1931, p. 82.

<sup>49</sup> *Federal Reserve Bulletin*, April 1934, p. 219.

<sup>50</sup> *RFC Report*, second quarter, 1934 (mimeographed).

*RFC CAPITAL INVESTMENTS IN BANKS* 207

the most difficult earning position. Smaller institutions, in particular, will be hard pressed. If default occurs, the RFC may find itself actively engaged in bank management. We comment further in Chapter XV on this aspect of the government's relationship to the banking system.



## CHAPTER XIV

### AID BY OTHER FEDERAL AGENCIES

Before the bank holiday there were a few government or semi-government agencies other than the RFC and Federal Reserve Banks which stood ready to assist in the liquefaction of bank assets. As examples of these, the Federal Intermediate Credit Banks and Home Loan Banks may be mentioned. The former rediscounted farm paper held by banks and other institutions,<sup>1</sup> and the latter performed the same service for certain institutions holding urban real estate mortgages.

The widespread distress among the owners of both farm and urban mortgaged real estate during the past few years led to the establishment of additional agencies designed to provide emergency relief. The property owner, rather than the mortgage holder, however, was designed to be the chief beneficiary.<sup>2</sup> Briefly, the plan was to authorize corporations chartered by the federal government to issue bonds which were to be exchanged for the mortgages. The property owners were then to be given the benefit of a lower interest rate and a longer amortization period. The procedure was to be carried out by the Farm Credit Administration, through the Federal Land Banks and the Farm Loan Commissioner, and the Home Owners' Loan Corporation.<sup>3</sup> Interest on the bond issues was guaranteed by the Federal government.

<sup>1</sup> For a description of their work see Frieda Baird and Claude L. Benner, *Ten Years of Federal Intermediate Credits*, 1933.

<sup>2</sup> See President's Message to Congress, Apr. 13, 1933.

<sup>3</sup> 48 Stat. L. 41, 128.

State legislation was enacted empowering state banks to invest in the bonds.<sup>4</sup>

#### L. THE FARM CREDIT ADMINISTRATION

The Farm Credit Administration in refinancing loans through the Federal Land Banks gave preferred consideration to cases where farmers were threatened with foreclosure, or where the loans represented frozen assets of closed banks.<sup>5</sup> Open institutions, however, have been benefited in numerous cases by the exchange of frozen mortgages for marketable bonds. However, the mere guaranty of interest on the farm loan bonds by the federal government failed to induce the holders of mortgages to exchange them in desired volume.

The Farm Loan Commissioner was authorized to use 200 million dollars of RFC funds for refinancing farm indebtedness.<sup>6</sup> The bulk of this was allotted to the purchase of mortgages held by banks. At first attention was centered on banks in states which appeared to have the largest volume of farm paper.

The co-operation of state banking officials was instrumental in facilitating the refinancing of mortgages. The Department of Financial Institutions of Indiana placed the services of trained representatives at the disposal of banks desiring to refinance mortgages in their possession, and collected statistics concerning the need for such refinancing.<sup>7</sup>

In addition to the lack of a ready market for the farm loan bonds, the farm refinancing program was delayed by the necessity of reappraisal of properties and conse-

<sup>4</sup> See, for example, N.Y. Banking Law, Sec. 384, sub-divisions 6 and 10(a); N.Y. Real Property Law, Sec. 278; as amended by the 1933 extraordinary session of the Legislature.

<sup>5</sup> 73 Cong., S. rep. 190.

<sup>6</sup> 48 Stat. L. 48.

<sup>7</sup> Letter from Director McKinley to all banks, trust companies, and building and loan associations, Aug. 10, 1933.

quent readjustment of indebtedness. The outstanding indebtedness on many farms was higher than the indebtedness permissible under the reappraisal values, and holders of mortgages were frequently reluctant to accept bonds in a lesser amount than the face value of their mortgages. Of \$832,800 of mortgages held by 21 closed banks in New York State, only \$268,100 was eligible for FCA refinancing at their face value.<sup>8</sup> The reluctance of mortgage holders was aggravated by the lack of marketability of the bonds which they had to accept if any large volume of refinancing were to take place. This situation was partially improved by loans made by the RFC to the FCA on the security of Land Bank bonds. The proceeds were used to purchase mortgages held by banks. All Land Bank bonds issued during 1933 were held by the RFC as collateral for such loans.<sup>9</sup>

In the first eleven months of 1933 the Federal Land Banks had closed loans totalling \$90,207,808, and the Land Bank Commissioner had lent an additional \$32,974,668.<sup>10</sup> Of the Land Bank loans, 86.8 per cent, or about 78 million dollars, went to refinance indebtedness, while about 30 million dollars of the Commissioner's loans went for that purpose.<sup>11</sup> Of the amount used to refinance indebtedness, about 38 million dollars went to purchase mortgages from active banks and retire other indebtedness to them. Approximately 1.3 million dollars went to bank receivers and conservators.<sup>12</sup> All these amounts were expended in cash. Obviously, however, the amount of aid given to open banks was rela-

<sup>8</sup> *New York Times*, Sept. 12, 1933. Many mortgage holders did accept bonds in amounts less than the face value of their mortgages, however. The average scale-down during 1933 was about 6 per cent. *Cong. Record*, Jan. 23, 1934, p. 1130.

<sup>9</sup> *Baltimore Sun*, Jan. 6, 1934, verified by inquiry at the FCA.

<sup>10</sup> *Annual Report of the FCA*, 1933, Table 1.

<sup>11</sup> The same, Table 3. \ <sup>12</sup> The same, Tables 4 and 5.

tively small, and the volume of funds made available to depositors in closed banks even smaller.

The personnel of the FCA was at the outset wholly insufficient to handle the volume of business properly. Twelve hundred new appraisers had to be selected and more or less carefully trained before the program could get well under way.<sup>13</sup> This technical difficulty removed, the unwillingness of mortgage holders to exchange mortgages for bonds was overcome to a considerable extent by the guaranty of the principal as well as the interest of the bonds by the federal government, making them as salable as direct United States obligations. The President advocated this step on the additional ground that "we thus publicly acknowledge what amounts already to a moral obligation."<sup>14</sup>

The legislation extending the guaranty to the principal of the bonds was approved January 31, 1934.<sup>15</sup> It created a new organization, the Federal Farm Mortgage Corporation, to issue the bonds and hold mortgages received in exchange. It was capitalized at 200 million dollars, subscribed by the United States, and authorized to issue 2 billion dollars in bonds. The maximum loan to any farmer was increased to \$7,500.

Farm mortgage financing was immediately facilitated. State banking authorities who had not recommended the exchange of mortgages for bonds now did so. Twice as many loans were made in the first three months of 1934 as during the entire year 1933.

By June 30, 1934 more than 378,000 loans had been closed since the inauguration of the FCA refinancing program. These loans totalled \$953,915,635, of which \$854,319,204 refinanced indebtedness. Of this amount

<sup>13</sup> *United States News*, week of Sept. 2-9, 1933.

<sup>14</sup> Message from the President to the Congress, Jan. 10, 1934.

<sup>15</sup> 73 Cong., Public No. 88.

\$167,514,486 went to open banks and \$10,741,387 to closed banks.<sup>16</sup>

Generally speaking, the FCA has not rendered the aid to closed banks that was anticipated at the outset of its operations. If it should use all funds available under the present law, and if the same proportion of the total as of the present advances were to go to closed banks, only about 25 million dollars will thus be made available to their depositors. Open banks, however, will get rid of a large proportion of their farm mortgages. This change in bank assets will be of only temporary significance if there is a resumption of agricultural investment on the part of banks.

Although the amount of funds advanced to closed banks as a group has been small, a considerable amount of aid has been rendered by FCA refinancing in several individual cases of reorganization or liquidation. Such action has resulted in as much benefit to the property owner as to the depositor, for closed banks are forced to press borrowers for repayment. During 1933 the St. Louis Land Bank aided the reopening of nine banks in Illinois.<sup>17</sup> In New York the liquefaction of farm mortgages by both the Intermediate Credit Bank and the Federal Land Bank of Springfield has aided numerous closed banks in rural communities. It is possible that, although the amount of such aid to any one bank was small, it frequently provided just enough additional liquidity to assure reopening.

## II. THE HOME OWNERS' LOAN CORPORATION

The Home Owners' Loan Corporation has an authorized capital of 200 million dollars, subscribed by the

<sup>16</sup> Data obtained from Division of Finance and Research, F.C.A.

<sup>17</sup> A. Crawford, "Progress of the Farm Credit Administration," *Burroughs Clearing House*, Nov. 1933, p. 9.

Federal Treasury, and it is authorized to issue 3 billion dollars in bonds bearing not more than 4 per cent interest and maturing not later than 18 years from the date of issue. Interest on all of these bonds, as well as the principal of those issued subsequent to May 1, 1934, is fully guaranteed by the United States. Holders of bonds issued before this date could convert them into fully guaranteed bonds at any time prior to October 28, 1934. The Corporation is empowered to exchange these bonds for mortgages on urban homes, but in no case may the value of the bonds exchanged exceed 80 per cent of the appraised value of the mortgaged property (or \$14,000, whichever is lower). In case the holder of the mortgage refuses bonds, the Corporation is empowered to refund cash to the extent of 40 per cent of the appraised value of the mortgaged property. Homes appraised at more than \$20,000 are ineligible for loans. New mortgages running for 15 years and paying 5 or 6 per cent are taken from the owners.<sup>18</sup> The spread between the interest received on mortgages and that paid on bonds is expected to be sufficient to cover the operating expenses of the Corporation and enable reserves to be set up.<sup>19</sup> To handle the exchange of mortgages throughout the country state headquarters have been established in every state, and over 250 district offices have been organized.

All of the states except Wyoming permit their banks and trust companies to exchange urban home mortgages for bonds of the HOLC. In some states this permission has been granted by statute, in some by court decisions, in others by opinions of the attorney-generals or banking authorities.<sup>20</sup> State banking authorities have, for the

<sup>18</sup> 73 Cong., Public No. 43, as amended by Public Nos. 178 and 479.

<sup>19</sup> *HOLC Bond Prospectus*, p. 1.

<sup>20</sup> In Ohio a court decision permitted such exchange even for mortgages held in trust as security for participation certificates. See *American*

most part, aided wherever possible in the exchange of mortgages held by closed banks.

At first the Comptroller of the Currency refused to authorize receivers of national banks to exchange mortgages for HOLC bonds, but after the receivers themselves had indicated that their depositors would be benefited, permission was granted. The receivers were thereby relieved of the servicing of the mortgages and enabled to take advantage of the better market position of the bonds, either through outright sale or by posting the bonds as collateral for loans. In every case, however, approval by the court and by the Comptroller was required.<sup>21</sup> At a later date conservators were also given this authorization.<sup>22</sup>

The operations of the HOLC have been hampered considerably by the difficulty of establishing a nationwide organization almost over night, and by the relatively large number of ineligible applications: The technical work of securing the consent of mortgagor and mortgagee, making preliminary and final appraisals, searching titles, settling taxes and liens, obtaining the approval of various committees, counsel, and other officials has undoubtedly protected the Corporation but has prevented the rapid refinancing which it set out to accomplish. The mortgage moratorium laws have to a considerable extent reduced the demand for its services.

Moreover, numerous mortgage holders were unwilling to agree to the exchange. In spite of an apparently

---

*Banker*, Apr. 10, 1934. For an attorney-general's opinion relative to the right of both open and closed banks to effect such exchange, see Pennsylvania Department of Justice, Formal Opinion No. 86, Aug. 17, 1933. For an opinion by a state banking authority, see Indiana Commission for Financial Institutions, Resolution of Aug. 17, 1933.

<sup>21</sup> Letter of Comptroller O'Connor to Chairman Stevenson of the HOLC, Sept. 23, 1933.

<sup>22</sup> The same, Oct. 19, 1933.

well-secured investment and a guaranty of 4 per cent interest, the price of the bonds fluctuated for some time between 80 and 90 per cent of par. Some mortgage holders had required the property owner to make up the discrepancy between the market price of the bonds and par. Unless this was done the mortgage holders considered their chances for realization better through foreclosure than refinancing. The Administration professed to feel a moral responsibility for these bonds as well as those of the FCA, and the guaranty was extended to principal as well as interest.<sup>23</sup> From the time it became apparent that this action would be taken, the consent of mortgage holders was much more readily obtained. The new fully guaranteed bonds bear only 3 per cent interest, but otherwise are as desirable as government securities. They are tax-exempt except as to gift and inheritance taxes and surtaxes.

Ineligibility arose either because the case did not meet the technical requirements of the act, or because the home owner was not in distress. A sample compilation indicates that about a fourth of the refunding was made possible by a reduction in the mortgage to meet the new appraisal or the maximum limits of the act.<sup>24</sup> The HOLC refused to take mortgages not in default from holders who merely wished to exchange them for something more liquid.<sup>25</sup>

The rule against lending to home owners who were not in distress was waived when the mortgage was held by a closed bank. In such cases all mortgages meeting the technical requirements of the law were ruled eligible

<sup>23</sup> 73 Cong., Public No. 178. Although this amendment did not apply to bonds issued before its passage, it provided for their conversion into fully guaranteed bonds. See p. 213.

<sup>24</sup> Data in *HOLC Statistical Report* for week ending Dec. 8, 1933.

<sup>25</sup> Speech of Director Fahey of the HOLC before the Boston City Club, Oct. 26, 1933.



in order to provide as much assistance as possible to owners of frozen deposits.

To expedite the handling of mortgages in closed banks, building and loan associations, and similar institutions, the Wholesale Department of the HOLC was set up.<sup>26</sup> It was then estimated that in ten states alone the amount of mortgages held in 2,937 closed institutions, including building and loan associations, aggregated 830 million dollars, and the HOLC indicated that an effort would be made to free this amount to depositors and shareholders. In Illinois 1,587 closed institutions had 413 million dollars in mortgages. It was estimated that 300,000 depositors would be aided in Massachusetts.<sup>27</sup> Had this program been carried out to its fullest possible extent in all parts of the country, the amount of funds remaining for the relief of owners whose mortgages were held elsewhere would have been small. Attempts were made to have other institutions refund mortgages held by closed institutions in order to reduce the demands on the HOLC.

The RFC aided the program of the HOLC by agreeing to make loans on the bonds at 80 per cent of their par value.<sup>28</sup> Thus closed banks making exchanges were enabled to secure more cash than they could if the mortgages had been offered as collateral. At the time the RFC offer was made, it was lending 50 per cent or less on the face value of mortgages.

The wholesale operations of the HOLC were quite important in hastening the liquidation of a number of institutions. The First National Bank of Detroit closed with mortgage holdings of 153 million dollars which

<sup>26</sup> HOLC Board, Resolution of Jan. 20, 1934.

<sup>27</sup> Statement of Chairman Fahey, Nov. 13, 1933.

<sup>28</sup> Letter from Chairman Jones of the RFC to Chairman Stevenson of the HOLC, July 22, 1933.

are being liquidated for the benefit of depositors through the HOLC and the RFC.<sup>29</sup> By June 29, 1934 the Wholesale Department had refinanced 61,875 mortgages, amounting to \$166,611,609, more than one-seventh of the dollar volume of refinancing of the Corporation. In some states all possible refinancing of this type had been completed. At this time the total number of eligible mortgages remaining in 5,900 closed banks, building and loan associations, and mortgage companies was 117,012, amounting to \$397,274,454.<sup>30</sup>

The portion of this amount held by banks alone has not been reported, but potential aid of the HOLC to depositors in closed institutions is great. It must be borne in mind, however, that, of the 166 million dollars furnished by June 29, the RFC had advanced a large proportion of the cash for payments to depositors, and that the HOLC merely made possible a larger advance than the RFC would have made against the mortgages themselves as collateral.

Total refinancing by June 29, 1934 amounted to over \$1,027,991,565. During the week ending on that date 17,510 loans were closed. These loans aggregated \$51,911,690. At that date 1,137,829 preliminary appraisals had been completed and 60,761 applications had passed through various stages of examination and were in the hands of the closing office.<sup>31</sup> Many thousand additional applications had been received, which indicates that the chief problem of the HOLC henceforth is one of carefully apportioning available funds among the applicants. The amount going to banks and other classes

<sup>29</sup> 73 Cong. 2 sess., Hearings on H.R. 8479 before sub-committee of House Committee on Banking and Currency, Mar. 20, 1934.

<sup>30</sup> Data obtained from Division of Research and Statistics, HOLC.

<sup>31</sup> *HOLC Summary Release*, July 6, 1934, and conference with Office of Public Information, HOLC.

of mortgage holders has not been reported, but the opportunity is offered for all banking institutions to thaw out some of their more undesirable urban mortgages at the smallest possible loss.

Both the HOLC and the FCA will have the unfortunate result of strengthening the belief of both borrowers and creditors that the federal government will lend them its credit when their contractual relations founder on the rocks of deflation. To this extent the tendencies of the experiences of the past few years to curb repetition of the speculative excesses of the past will be disregarded.

### III. THE FEDERAL DEPOSIT INSURANCE CORPORATION

As was noted in Chapter XII, the Banking Act of 1933 provides, in the Federal Deposit Insurance Corporation, a continuing agency for lending to closed banks. Sub-sections (m) and (n) of Section 12B of the act provide:

(m) Nothing herein contained shall be construed to prevent the Corporation from making loans to national banks closed by action of the Comptroller of the Currency, or by vote of their directors, or to state member banks closed by action of the appropriate state authorities, or by vote of their directors, or from entering into negotiations to secure the reopening of such banks;

(n) Receivers or liquidators of member banks which are now or may hereafter become insolvent or suspended shall be entitled to offer the assets of such banks for sale to the Corporation or as security for loans from the Corporation, upon receiving permission from the appropriate state authority in accordance with express provisions of state law in the case of state member banks, or from the Comptroller of the Currency in the case of national banks. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such banks.<sup>52</sup>

<sup>52</sup> 48 Stat. L. 176.

In spite of considerable unfavorable criticism, the FDIC has taken no action under this authorization. It has maintained that its chief purpose is the insurance of deposits of going banks, and that its capital funds must be held as a reserve for this purpose, and cannot be dissipated in loans on, or purchases of, assets of closed institutions. It has held that the existence of the Deposit Liquidation Board of the RFC, created in October 1933 to encourage liquidators of closed banks to borrow from the RFC in order to make funds available to depositors, was in itself sufficient reason for refraining from entering this field. Moreover, while the FDIC is empowered to increase its funds by the sale of debentures, it has been felt that there would not be a large market for such securities, inasmuch as they are not guaranteed by the federal government. Consequently, while the FDIC may be expected to provide relief to depositors of any of its members which may fail in the future,<sup>33</sup> for the present federal government advances to expedite payments to depositors are confined to loans made by the RFC upon the security of assets of closed banks.<sup>34</sup>

<sup>33</sup> Under the temporary plan the FDIC at least made quickly available deposits of \$2,500 and under, up to July 1, 1934. On this date the limit became \$5,000 with the exception that mutual savings banks, unless upon choice approved by the Board of the FDIC, will continue to operate on the \$2,500 basis instead of the \$5,000. Under the permanent plan larger amounts will become available.

<sup>34</sup> See Chap. XII.

## CHAPTER XV

### RESULTS OF FEDERAL AID

As was stated in Chapter XI, any present appraisal of the results of the federal government's policy of direct financial aid to banks must be very tentative, as the full results are not yet apparent. There are several aspects of the issue, however, concerning which at least a tentative judgment can now be offered.

#### I. DIRECT BENEFITS TO BANK DEPOSITORS AND BORROWERS

RFC loans to closed banks did not make possible a greater return to depositors than would have been yielded by the ordinary processes of liquidation, but they did make part of such payments available sooner. They aided owners of frozen deposits in the same manner that liquidation under the auspices of active banks did. But the scope of RFC activities in this respect is obviously far greater than was possible under the liquidation plans of the Manufacturers Trust Company and other banks. Furthermore, by cash loans on the assets of closed institutions, sufficient liquidity was provided to make possible numerous reopenings that otherwise would have been impossible.

Additional benefits are expected to be derived from these loans by virtue of the fact that the RFC is to hold assets for liquidation over a period of years.<sup>1</sup> Under ordinary liquidation procedure the desire to make payments to depositors would require the sale of securities

<sup>1</sup> Address by Chairman Merriam of the Deposit Liquidation Board over Columbia Broadcasting System, Dec. 21, 1933.

on a low market, and the collection of notes in a depressed period. A loan from RFC, it has been urged, will permit immediate part payment to depositors and possibly subsequent liquidation on a rising market.

From the depositors' point of view, the benefit from an increase in the value of the assets may be partly offset by a rise in the general price level. At the end of five years, for example, the assets may have been liquidated at 50 per cent more than would have been possible under present conditions, but the price level may have risen in the same ratio. Moreover, in some cases negotiations for RFC loans have occasioned delays which have retarded the disbursement of funds and initial payments have been held up longer than they would have been if liquidation without a loan had been undertaken. Should the values of the assets fall while they are held by the RFC, depositors may receive less than if liquidation had not been delayed. The RFC is placed in the position of speculating with depositors' property.

The RFC has received interest of 5.5 to 4 per cent on closed bank loans. This is, in final analysis, paid by the depositors from either the interest or the principal of the assets being liquidated for their benefit. It is a forced charge for the service of disbursing larger and quicker initial payments, and holding the assets for a rising market.

On the other hand, the RFC has brought about some saving to depositors through a reduction in the costs of liquidation. In so far as it disposes of the assets through centralized liquidation, some saving may be expected over decentralized liquidation by individual receiverships. This would be especially true for small banks, receivers for which market securities in small lots.

Moreover, the RFC has made use of the statute per-

mitting control of compensation of officers or employees connected with financial institutions to which it makes loans<sup>2</sup> by requiring receivers' salaries to be kept within reasonable bounds. It has also refused to allow large salaries to be paid to officers of banks which it is helping to liquidate. This action is particularly justified because the RFC itself assumes some of the work of liquidation. It has enforced a much needed reduction in receivership expenses, which have been frequently criticized as entailing unwarranted costs paid from depositors' funds.<sup>3</sup>

Liquidation and holding of assets by the RFC will probably help debtors to closed banks more than depositors. A longer liquidation period will remove some of the pressure for repayment, and if business conditions continue to improve and prices continue to advance obligations will be met more easily than at present.

The longer period of liquidation was also intended to prevent the dumping of bank assets, particularly investment securities and mortgages, on an abnormally low market. It was feared the tendency would be further to depress the values of all securities. Even a gradual unloading on a rising market will tend to restrain its rate of increase. And should the present tendency to rise come to a halt, the RFC will be faced with the necessity of threatening the market with a sale of assets which will tend to encourage another decline. The situation calls for the development and exercise of an extremely careful policy on the part of RFC officials.

The RFC loans made to open banks in an effort to ward off the banking collapse did not prove beneficial to bank depositors as a group. Some depositors were lulled to a false sense of security because of RFC operations and consequently left their deposits untouched.

<sup>2</sup> See p. 8.

<sup>3</sup> See pp. 78-84.

They suffered a loss, part of which they might otherwise have avoided. Had they been successful in withdrawing their deposits, however, other depositors would have borne a correspondingly greater loss.

RFC loans, in effect, gave those with better knowledge of their banks' condition more time to convert their deposits into cash, if they so desired. Those who did leave their funds on deposit frequently discovered, upon the suspension of their banks, that all valuable assets had been hypothecated with the RFC. Moreover, the deduction of interest charges on RFC loans left less for the depositors in case a bank suspended. Bank earnings were already low in 1932 and 1933, and this extra charge during these years amounted to approximately 50 million dollars.

Since the bank holiday there have been few RFC loans to open banks, aside from capital investments. The liquidation of loans still outstanding may occasion some difficulties, however. Some of the borrowing institutions are likely to find it difficult to retire these obligations. Continuing renewals would be patently unsound, while forced collection might cause insolvency.

On the other hand, banks have a traditional abhorrence of being in debt to others than their depositors. They will usually make every effort to reduce their borrowings. Desire to repay RFC loans may have had some effect on the curtailment of bank credit, through refusal to make new loans or renew old ones. Had these loans not been repaid so rapidly, the RFC would have been forced to resort to additional demands on the Treasury in order to maintain its present volume of credit. As Treasury obligations are largely held by banks, the net result would have been a larger volume of bank credit outstanding. This the RFC is attempting to bring about.



**II. THE EXPANSION OF BANK CREDIT**

The RFC has consistently and by various means sought to bring about an expansion of commercial bank credit, particularly in the field of loans to business. RFC loans and purchases of capital obligations were expected to restore confidence in the banking system and also to make the banks more willing to lend. In connection with these phases of its activities the RFC, through its Chairman, constantly urged the banks to advance more credit to business. Banks were asked to make loans to promote a return of prosperity, and were assured at the same time that the recovery already under way would secure a further extension of credit. Liquidity of more than 40 or 50 per cent was held to be no longer necessary. Bankers were urged to get over their fear, and to make loans if they did involve some risk. The extension of intermediate term credit was even suggested to commercial banks.<sup>4</sup>

Considerable urging was necessary before the bankers yielded to these suggestions. Many stated emphatically that their institutions were supplied with sufficient capital funds to take care of all sound demands for credit. It was pointed out that excess reserves, the index of potential credit expansion, were at an all-time high, partly as a result of other attempts to increase loans, such as Federal Reserve open market purchases.<sup>5</sup>

The best indices of the success of this program are the figures for the outstanding credit of the weekly reporting member banks in leading cities, which have about

<sup>4</sup> See addresses by Chairman Jones before the Illinois Manufacturers Association, Chicago, Dec. 12, 1933; and the New York State Bankers Association, New York City, Feb. 5, 1934.

<sup>5</sup> Excess member bank reserves increased steadily from about 379 million dollars at the end of the holiday to over 1.7 billion at the end of March 1934.

## RESULTS OF FEDERAL AID

225

**LOANS AND INVESTMENTS OF REPORTING MEMBER BANKS IN LEADING  
CITIES, JANUARY 1932-JUNE 1934\***  
(In millions of dollars, for the last week in each month)

Date	Loans		Investments		Loans and Invest- ments
	On Securities	All Other	U.S. Securities	All Other	
Jan. 27, 1932..	4,992	6,224	3,563	2,955	17,734
Feb. 24.....	4,846	6,148	3,527	2,854	17,375
Mar. 30.....	4,744	5,887	3,649	2,884	17,164
Apr. 27.....	4,518	5,801	3,620	2,931	16,870
May 25.....	4,339	5,713	3,822	2,988	16,862
June 29.....	4,185	5,563	3,993	2,904	16,645
July 27.....	4,040	5,461	3,872	2,876	16,249
Aug. 31.....	3,971	5,354	4,261	2,886	16,472
Sept. 28.....	3,984	5,268	4,679	2,925	16,856
Oct. 26.....	3,822	5,252	5,002	2,990	17,066
Nov. 30.....	3,764	5,218	4,973	3,015	16,970
Dec. 28.....	3,789	5,082	4,916	2,994	16,781
Jan. 25, 1933..	3,662	4,986	4,991	2,992	16,631
Feb. 22.....	3,693	4,807	4,836	2,979	16,315
Mar. 29.....	3,644	4,688	4,583	3,086	16,001
Apr. 26.....	3,638	4,703	4,678	3,029	16,048
May 31.....	3,713	4,772	4,948	2,993	16,426
June 28.....	3,748	4,704	5,254	2,959	16,665
July 26.....	3,789	4,772	5,117	2,984	16,662
Aug. 30.....	3,766	4,767	5,131	2,943	16,607
Sept. 27.....	3,687	4,853	5,056	2,933	16,529
Oct. 25.....	3,584	4,959	4,956	2,968	16,467
Nov. 29.....	3,569	4,999	5,114	2,990	16,672
Dec. 27.....	3,628	4,774	5,267	2,997	16,666
Jan. 31, 1934..	3,609	4,740	5,786	2,986	17,121
Feb. 28.....	3,520	4,665	6,249	2,966	17,400
Mar. 28.....	3,514	4,647	6,227	3,084	17,472
Apr. 25.....	3,516	4,604	6,282	3,069	17,471
May 30.....	3,476	4,550	6,262	3,018	17,306
June 27.....	3,529	4,485	6,665	3,058	17,737

\* *Federal Reserve Bulletin*, August 1933, pp. 521-22; December 1933, p. 474; July 1934, p. 455.

two-thirds of the assets of all member banks, and over half the assets of all banks exclusive of mutual savings institutions. These data are given in the accompanying table for the period since the establishment of the RFC.

The total volume of bank credit is practically the same now as when the RFC was established. There has been

a decrease of 29 per cent in loans, but this has been offset by an 87 per cent increase in United States securities, which now comprise over a third of all earning assets.

The RFC has been chiefly interested, however, in bringing about an expansion of commercial loans. These, as represented in statistical reports by "All Other Loans," have fallen nearly 30 per cent since January 1932. RFC loans to open banks during 1932 were not successful in checking this decline, and since the holiday these commercial loans have remained virtually stationary.

The Industrial Committee of the New England Council collected data in that region concerning the ability of smaller industries to obtain credit. Questionnaires were sent to 1,895 of the smaller New England manufacturers, including the following question: "If you have had difficulty in financing your operations, please describe." Of the replies to the question, 251 lent themselves to statistical analysis. No difficulty in financing had been experienced by 115. An additional 60 were having credit difficulties, not, however, occasioned by the inability of securing commercial bank loans; while the remaining 76 did complain of the unavailability of such loans. Twelve of these, however, merely indicated that banks were requiring "excessive collateral," and five more that credit needs were being taken care of elsewhere.<sup>8</sup> It is safe to assume that a majority of the remainder did not represent particularly attractive credit risks.

The efforts of the RFC to expand bank credit have so far met with no more success than have its efforts to prevent bank failures. Its assumptions that liquefaction of frozen assets and a strengthened capital position would be followed by an expansion of commercial loans have so far proved erroneous. With the improvement of fu-

<sup>8</sup> *American Banker*, Mar. 28, 1934.

ture prospects and the return of confidence, business borrowers will be regarded as better risks by banks, and borrowing will perhaps be looked upon with more favor by business.

On June 19, 1934 a law was passed authorizing the RFC and Federal Reserve Banks to lend directly to industry in exceptional cases when credit was not available at the commercial banks.<sup>7</sup> Conditions under which loans of this type may be made are set forth in Section 5 of this law:

... Such loans shall in the opinion of the Board of Directors of the Corporation be adequately secured, may be made directly, or in co-operation with banks or other lending institutions, or by the purchase of participations, shall have maturities not to exceed five years, shall be made only when deemed to offer reasonable assurance of continued or increased employment of labor, shall be made only when, in the opinion of the Board of Directors of the Corporation, the borrower is solvent. . . .

Funds for these loans are to be provided as follows:

The Federal Reserve is authorized to devote its entire surplus of approximately \$139,000,000 to such loans, and, in the discretion of the Secretary of the Treasury, an additional \$140,000,000 to be furnished by the Treasury. The RFC is authorized to lend up to \$300,000,000 to this class of borrowers. . . .<sup>8</sup>

### III. RESTORATION OF PURCHASING POWER

Loans to closed banks have been definitely connected with the recovery program by numerous government officials and others. First, it is said that these loans have the effect of restoring purchasing power by converting into cash a portion of the deposit currency removed from circulation by bank closings. The cash resources of the in-

<sup>7</sup> 73 Cong., Public No. 417.

<sup>8</sup> Jesse H. Jones, "Industrial Loans and Closed Bank Deposits," radio address of June 26, 1934.

dividual depositor are improved, naturally, when his deposit is thawed out. But cash to make this possible is obtained by the RFC through the borrowing operations of the Federal Treasury. There are three possibilities. First, if Treasury obligations are sold to the public, cash or bank deposits are merely transferred, in effect, from the purchaser to the owner of the frozen deposit. Thus no increase of currency or purchasing power takes place. Second, if the Treasury issues are sold to banks which would otherwise let their funds lie idle,<sup>9</sup> there is a genuine expansion of purchasing power. Third, the Treasury obligations may be bought by Federal Reserve Banks. In this case a corresponding direct increase of credit takes place, and, in addition, the transaction makes an expansion of commercial bank credit possible, since reserve balances are increased. But as was pointed out on page 224, potential credit expansion does not always mean actual credit expansion, and reserve balances are already superabundant.

In particular instances RFC loans have helped materially to liquefy the funds of depositors which have been tied up in wholesale amounts. In Detroit the majority of bank deposits were unavailable after the bank holiday. The two largest banks, neither of which reopened, had total deposits of about 700 million dollars. RFC loans of over 100 million, together with liquidation of assets, have enabled one of these institutions to pay off 50 per cent, and the other 60 per cent.<sup>10</sup> A reappraisal of their assets, and further loans at 75 per cent of the appraised value, will make further payments possible. This aid to the restoration of the circulating medium in Detroit has been of great importance to that city, regardless of

<sup>9</sup> Compare above, p. 223.

<sup>10</sup> 73 Cong. 2 sess., Hearings on H.R. 8479 before House sub-committee of the Banking and Currency Committee, Mar. 20, 1934.

the question how far it caused an offsetting absorption of funds elsewhere. While new banking facilities were established in Detroit soon after the bank holiday, a considerably greater restriction of credit would have been inevitable without the release of funds which took place. In other smaller and more self-sufficient communities, an initial payment of deposits with RFC funds has had a marked effect on local conditions. The owners of the frozen deposits have made purchases or paid off debts. The recipients of these payments have liquidated debts owed to the bank, which has made possible further payments to depositors, and so on. The RFC has not increased the value of any of the assets, but it has restored a part of the currency formerly issued against them, and assisted in the revival of normal relationships. Especially where most of the bank assets were local loans or securities, this receipt of credit from without the community has restored circulating currency sufficiently to make possible far quicker and more thorough liquidation than would have been possible without it.

#### IV. AID TO BANKS AND TREASURY FINANCING

The tremendous increase in the public debt in the past few years has been attributable in no small part to the operations of the RFC. As of June 30, 1934 the Federal Treasury had subscribed the 500 million dollar capital of the Corporation and had purchased \$3,255,000,000 of its notes. These advances had been made possible by the sale of government securities. On June 30, 1934 the RFC had only a few million dollars on hand and had additional commitments amounting to \$1,271,000,000.<sup>11</sup> Of the total commitments, \$180,283,000 was for loans to banks and \$178,501,000

<sup>11</sup> *RFC Report*, second quarter 1934 (mimeographed).

was for the purchase of preferred stock, capital notes, and debentures of banks.

RFC advances are in part to be considered as constituting a revolving fund. Of the advances to banks, over a billion dollars has been repaid, and as repayments come in they have been used for new loans. On June 30, 1934 outstanding advances to banks made through loans and purchases of preferred obligations totalled \$1,413,000,000.<sup>12</sup> The Corporation does not consider its bank advances as gifts. It expects practically all of them to be repaid.<sup>13</sup> And as its lending operations cease, the repayments will be used to retire its debt to the Treasury, which will then be in possession of funds with which to retire its own obligations, or make additional expenditures without incurring new debts.

It is too early to attempt to estimate what losses the RFC will take on its advances to banks. While in most cases it has required a collateral margin of at least 25 per cent, it is obvious that in view of the difficulties of appraising such assets as unlisted securities, mortgages, and unsecured notes this margin will not in all cases be sufficient.<sup>14</sup> Moreover, the Corporation will be hampered in its liquidation by the fact that it is a government

<sup>12</sup> On July 2, 1934, New York City banks repaid to the RFC \$51,300,000 of their outstanding capital notes. "Statement of Jesse H. Jones," *RFC Summary Release No. P-1021*, July 6, 1934.

<sup>13</sup> Chairman Jones has stated: "Money loaned by the RFC to banks, railroads, insurance companies, mortgage companies, *et cetera*, will largely be repaid, and money that we invest in preferred stock, capital notes, and debentures in banks and insurance companies will mostly come back." *Follow the Leader*, address before the East Texas Chamber of Commerce, Texarkana, Tex., Apr. 23, 1934.

<sup>14</sup> The Corporation has admitted that it will in all likelihood suffer some loss on one of its largest bank loans, that to the Central Republic Trust Company. (See pp. 158-60.) The assets pledged by the Lima First American Bank and Trust Company of Lima, Ohio, for a \$100,791 RFC loan, shrank to an appraised value of \$14,116. *American Banker*, Jan. 25, 1934.

agency, and consequently will be under disadvantages in regard to foreclosures and other attempts at collection. Nevertheless, the margin of safety appears to be large enough to insure the Corporation against many large losses. Approximately three-fourths of the loans to open banks, aside from capital investments, and nearly a fourth of those to closed banks, have already been repaid.

On its holdings of capital obligations the RFC has much less protection, its claim on the assets of the issuing bank being subordinate to that of depositors and general creditors. The general earning record of banks indicates that there is considerable prospect of default on these preferred stock issues and capital notes. In such an event the suspension of the bank concerned would appear to be probable, as depositors' confidence would be impaired. And since almost invariably the liquidation of a suspended bank fails to provide complete repayment of depositors, and provides nothing for stockholders,<sup>15</sup> the RFC is likely to sustain losses.

Bank suspensions are for the present at a halt. Marginal institutions were weeded out during the holiday. But the RFC has purchased the capital issues of hundreds of admittedly weak banks, and if present efforts to secure an upward trend of business activity and prices are not entirely successful, a number of failures will be inevitable. If the government then pours in sufficient funds to keep them open, it is likely to lose these further advances; if it allows them to close, it will lose its present investment. The loss of a portion of the capital

<sup>15</sup> Stockholders in 267 national banks which suspended during 1921-30 and were completely liquidated during that period, received only \$32,000 in cash and \$490,000 in other assets. The capital stock of these banks aggregated \$13,394,000. *Bank Suspensions in the United States*, Federal Reserve Committee on Branch, Group, and Chain Banking, pp. 106-08. Compare above, Chap. VIII.



investments appears certain. The degree of loss will depend upon the future course of business and the effectiveness of the tighter supervisory control which the government is attempting to exercise.

It is true that some additional income has accrued to the Federal Treasury through its ability to borrow money at a lower rate than that paid by the RFC on its notes. For some time the Corporation was paying 3.5 per cent while the Treasury was borrowing at an average rate of about 3 per cent, and of considerably less than that on its shorter term obligations.

This policy has been abandoned for one which brings interest paid by the RFC more into line with that paid by the Treasury. On June 30, 1934 the Treasury held the following notes of the corporation:<sup>16</sup>

Series	Rate	Amount
D-1 .....	$\frac{1}{8}$ per cent	\$ 475,000,000
D-2 .....	2 per cent	1,290,000,000
D-3 .....	$\frac{1}{8}$ per cent	675,000,000
D-4 .....	3 per cent	815,000,000

These notes, authorized December 20, 1933 and maturing November 1, 1934, bear an average interest of about 1.6 per cent. While the reduction in interest costs will tend to improve the net income of the Corporation, it will be partially counterbalanced by the lowering of the rates charged on loans and preferred issues.

Any losses which may accrue to the RFC on its bank advances will be in the nature of gifts to bank depositors or borrowers. Loans have provided depositors with cash and, if banks issuing preferred obligations fail, depositors have first lien on the assets. In some such cases loans may be made to borrowers who, after using the funds, will fail to repay them. In so far as deposits are liquefied

<sup>16</sup> *RFC Report*, second quarter 1934 (mimeographed).

at a loss to the RFC, the effect has been the same, to a lesser degree, as if the taxpayer had been assessed for the benefit of the depositor—the pay-off plan of Representative McLeod.

In final analysis, however, the present bank advances of the RFC will not bring about any such redistribution of wealth in large amounts. Any net increase in the public debt which may be occasioned will be relatively small. From the fiscal standpoint, RFC operations have merely given a government guaranty to the credit of the banks. They have secured funds from the public with this guaranty which they could not have raised without it. In so far as the banks have been large purchasers of government securities, they themselves have financed the program. By it, the capital of the banking system has been strengthened, and frozen deposits have been liquefied. But through it important issues of government ownership and control have been raised. Another threatened wave of failures would leave the government faced with three alternatives—a further outpouring of funds, assumption of full ownership and operation, or the loss of its investment. Unless the present weak decentralized system is basically reformed, it is not unlikely that the choice will have to be made.

In addition to the 3,755 million dollars advanced to the RFC (notes plus capital) the federal government has a potential liability both as to principal and interest for the bonds of the Federal Farm Mortgage Corporation and the Home Owners' Loan Corporation. Under existing statutes FFMC bonds may be issued up to a maximum of 2 billion dollars; HOLC bonds up to a maximum of 3 billion dollars.

While these advances and guaranties are probably adequately secured, a future collapse of real estate values

might occasion a considerable loss to the Treasury. Prices of farm land often change suddenly.

Moreover, these agencies, like the RFC, will find themselves at a relative disadvantage, compared with private mortgage holders, in cases of default on the mortgages they own. There will be even more resistance to foreclosures and evictions for the benefit of the Federal Treasury than there has been to such action for the benefit of private creditors.

#### V. FEDERAL CONTROL OF THE BANKING SYSTEM

Recent banking legislation gives the federal government new powers of control of two quite distinct kinds—powers of regulation over the different classes of banks, and direct voting control of individual banks.

As to the first of these, it is to be noted that for the first time in American history practically all commercial banks are under some form of federal unified control. Supervision of banks by the federal government and the 48 separate states, under as many diverse laws, had created a condition aptly described as "competition in laxity."<sup>17</sup>

The RFC, through its loans to banks, both state and national, and its purchases of the preferred obligations of both classes, has brought about some degree of centralized regulation, and the FDIC, which with RFC aid has brought into its membership 90 per cent of licensed commercial banks, is bringing about considerably more. If its present chairman's views are any indication of its future career, it will tend inevitably to assume the supervisory functions of both federal and state authorities.<sup>18</sup>

<sup>17</sup> See *The Dual Banking System*, Federal Reserve Committee on Branch, Group, and Chain Banking.

<sup>18</sup> See address by Chairman Crowley of the FDIC before the Executive Council of the American Bankers Association, Hot Springs, Ark., Apr. 18, 1934.

The second type of control of banks, namely direct ownership of equities and participation in the management of individual banks, is a new thing in American banking history. Government ownership has never been accepted or even made a serious political issue. But almost without realization by the public, the government has established in the RFC the largest bank in the world and through it the government now has a substantial voting interest in half the commercial banks of the nation. It is not within the scope of this study to go into the merits and disadvantages of the socialization of banking. But it is necessary to emphasize that a long stride has been made in this direction as a part of the broad movement toward public ownership and control being extended on many fronts. By virtue of its ownership of preferred stock, the RFC assumes equal control over the management of the issuing institutions, share for share, with the common stockholders.<sup>19</sup> Voting the stock of national banks is now on a cumulative basis, and so the Corporation is assured of being able to elect a number of directors in direct proportion to its stock ownership. Inasmuch as it owns half the stock of most of the reorganized national banks, it is obviously in a position to exert substantial control over their management. And through this ownership, it owns indirectly a substantial part of the stock of the Federal Reserve Banks.

To protect the rights of both classes of stockholders, the approval of the owners of two-thirds of each class is required: (1) To increase either class of stock or issue a new class, unless common is to be issued to retire preferred; (2) to decrease common stock; (3) to change the name or location of the bank; (4) to amend the articles of association, except that the respective voting rights

<sup>19</sup> *RFC Form PS.-1*, revised Mar. 26, 1934.

of preferred and common stock may not be changed; (5) to incur indebtedness of a maturity of more than one year; (6) to consolidate or merge the bank; (7) to sell its assets; (8) to liquidate it voluntarily; (9) to reorganize it.

Stockholders of each class have first pre-emptive rights on new issues of that class, and second pre-emptive rights on issues of the other class.

If two semi-annual dividend payments are in arrears the holders of preferred, as a class, are entitled to twice the number of votes to which the holders of common, as a class, are entitled, no matter how many shares of each are outstanding.

During the time the preferred votes are so increased, directors, officers, and employees may be removed by two-thirds of the votes to which all shareholders are then entitled.

So long as the RFC holds not less than 25 per cent of the preferred stock, if either (a) two semi-annual dividend payments are in arrears, or (b) 5 per cent of the total issue of preferred is not amortized each year beginning with 1936, or (c) capital becomes impaired, or (d) the articles of association are violated, the preferred stockholders obtain added control, as follows:

(1) The holders of a majority of the preferred stock may fix the compensation of directors, officers, and employees.

(2) The RFC, with the consent of the Comptroller of the Currency in the case of a national bank, may request the removal of any directors, officers, and employees, the holders of preferred to be entitled to twice the total number of votes of the holders of the common if the request is not heeded.

(3) The bank may not acquire real estate for its own

use without the consent of the majority of the preferred stockholders.

(4) The bank may not incur indebtedness of a maturity of more than one year without the consent of holders of a majority of the preferred stock.

The RFC exercises no voting power through ownership of capital notes or debentures unless they are in default. But if a bank issuing these obligations defaults on them or becomes insolvent, the RFC, as majority holder of the debentures, assumes control of the personnel of the bank and their compensation and of its ownership of real estate. In addition, banks issuing debentures agree not to incur other long-term indebtedness without the majority consent of the debenture holders.<sup>20</sup> Banks issuing capital notes agree to the payment of common dividends at a rate fixed by the RFC<sup>21</sup> as holder of the capital notes.

The RFC thus has a large degree of control over the state and national banks which have sold it preferred stock, and a lesser degree over state banks which have issued to it capital notes or debentures. In case of default on any of these obligations, the corporation assumes virtually complete control over their management. As was shown above, it is probable that it will have frequent opportunity to exercise these powers.

From the standpoint of control, it is interesting to note the degree of ownership of capital obligations among various classes of banks. For the country as a whole, the Corporation has purchased the issues of nearly half the active banks. Most of the reorganized institutions are included. Large banks, as well as small, have subjected themselves to RFC control.

<sup>20</sup> *RFC Form P.S. 2*, revised Mar. 26, 1934.

<sup>21</sup> *RFC Form C.N. 1*, revised Dec. 28, 1933.

Of the 100 largest banks in the country, 40 have sold issues to the RFC. Their common capital totals over a billion dollars, or approximately 40 per cent of the common stock of all the banks of the nation. Their preferred obligations amount to \$361,700,000. The preferred obligations represent about one-third of all RFC capital investments in banks. Of the 100 largest banks, 53 have national charters and consequently may issue preferred stock with voting rights, but not capital notes or debentures. Only 14 of these national banks have sold preferred stock to the RFC, however.

In a few of the national banks, RFC holdings of preferred are equal to the entire outstanding common, and in one they are double the common. In all the rest the Corporation is by far the largest stockholder. In some smaller banks the RFC preferred holdings are larger than the entire issue of common. In all Toledo banks the Corporation's preferred investments are equal to the total common stock.

There are some indications that the RFC may have made considerable use of its potential control. At least there are numerous cases in which banks that have sold preferred stock to the RFC have elected new executive officers who were formerly employees of the RFC or of the Comptroller. The Corporation denies, however, that these officers have been elected at its dictation.<sup>22</sup> The only RFC nomination which has been publicly acknowledged as such is that of Walter J. Cummings as chairman of the board of the Continental Illinois National Bank and

<sup>22</sup> A letter from Mr. Lynn P. Talley, assistant to the directors of the RFC, dated Oct. 22, 1934, says: "It is our belief that the responsibility for the personnel of the officers rests with the directors of such institutions. Even in the comparatively few instances in which we have required that the management be satisfactory to this Corporation the usual procedure is for the directors of the bank in question to nominate certain individuals for the approval of the Corporation. I believe that in only one case has the Corporation deviated from this policy and in that case the appointment of but one individual was involved."

Trust Company, while the directors apparently desired to name another to the post.<sup>23</sup> This appointment was later the subject of criticism when Mr. Cummings was elected Treasurer of the National Democratic Committee.<sup>24</sup>

The RFC may use its voting power not only to force new management on a bank, but to place control in the hands of one or another faction among the common stockholders. A new Board of Directors of the American National Bank of Nashville was elected January 9, 1934, through the influence of the RFC, owner of four-sevenths of the stock.

Charges and counter-charges have flown thick and fast concerning what has been regarded as an attempt to bring about the socialization of the banking system. Bankers have on numerous occasions objected strenuously to the control features of the capital obligations. The Administration, however, has vigorously denied that it is control which it is seeking. A letter from President Roosevelt to Chairman Jones of the RFC dated September 26, 1933 reads in part as follows:

I understand the question has been raised in some quarters that the government wants to control the banks through the ownership of preferred stock. Nothing could be further from the truth. The government only wants to help provide banking capital adequate to meet the credit needs of the country, and through buying, and lending upon preferred stock and capital debentures, it accomplishes this without undue demand upon present stockholders.

Chairman Jones has frequently made similar statements. Upon one occasion he said flatly:

. . . the government has, and has had, only two objectives in

---

<sup>23</sup> *Baltimore Sun*, Jan. 5, 1934.

<sup>24</sup> It is the Administration's policy that members of the National Committee shall not hold federal offices. It would seem equally desirable that they should not hold office as agents of the government. The banking system may be done irreparable damage by making use of RFC control for purposes of political patronage.



view in its preferred stock program. One to strengthen the banks in the interests of depositors, and the other to place banks in such a strong capital position as to enable them to assist in the recovery program by providing legal credit for agriculture, business, and industry.

There is no thought of dictating management nor of coercion as to bank policies or bank investment.<sup>25</sup>

The fact remains that the RFC does vote the preferred stock it holds. And Chairman Jones has admitted that the responsibility which stock ownership entails cannot be evaded.<sup>26</sup> At the time of the election of Mr. Cummings as chairman of the Continental-Illinois National Bank and Trust Company, an RFC statement admitted that the Corporation "felt that some new faces and ideas in the Continental would be helpful," and that it would "insist upon changes where the best interests of the stockholders and the depositors are involved." The same statement indicated that in general the voting power will be used to co-operate with the present management, but that in situations where the management was unsatisfactory it would be changed.<sup>27</sup>

A letter from the chairman of the Board of the Chase National Bank to its common stockholders, dated January 22, 1934, sought to allay any fears they might have on this score. It pointed out that:

(1) The recapitalization made possible the setting up of such reserves for contingencies that the possibility of double voting rights becoming invested in the preferred was remote;

(2) That unless this occurs there are 7,400,000 common against 2,500,000 preferred shares;

(3) That the number of directors cannot be reduced without the consent of the common stockholders;

---

<sup>25</sup> Address before the New York State Bankers Association, New York City, Feb. 5, 1934. See also address over a NBC network Nov. 1, 1933, and statement of Director Couch in *American Banker*, Nov. 22, 1933.

<sup>26</sup> *American Banker*, Dec. 16, 1933.

<sup>27</sup> The same, Jan. 11, 1934.

(4) That provisions for class voting of the stock are only for the protection of the preferred holders to which they are entitled;

(5) That common stockholders were given the right to purchase the entire preferred issue;

(6) That greater voting rights for preferred are justified if the investment should become impaired; and

(7) That if the RFC should obtain control it was to be assumed that such control would be exercised for the benefit of the common stockholders as well as the preferred.

The letter stated that the earnings of the bank, if no more great charge-offs were necessary, were ample to take care of required preferred payments. This assumes that the Bank's assets will not suffer any undue depreciation in the future. It is true that common shares now hold about 75 per cent of the voting rights, but the RFC holdings are in one block, which gives it a greater degree of control than its proportional holdings indicate.

In regard to the seventh point made in the chairman's letter, it is certain that the interests of the RFC and the common shareholders might not always be identical. Should the bank default on its preferred payments, the default would probably cause such loss of confidence among depositors that suspension would be inevitable. It might then be to the best interest of the Corporation to place it in liquidation, and cause an assessment to be levied on the common stock. And at any time the RFC in the interests of the general public might desire to dictate a policy contrary to the interests of common stockholders.

It should be noted, in passing, that the control which has been acquired by investing capital in banks not actually in need of funds is of doubtful legality. The only authority for the campaign to buy stock in banks generally is the following provision of the Emergency Banking Act:

If in the opinion of the Secretary of the Treasury any national banking association or any state bank or trust company is in need of funds for capital purposes either in connection with the organization or reorganization of such association, state bank or trust company or otherwise, he may, with the approval of the President, request the RFC to subscribe for preferred stock in such association, state bank or trust company.<sup>28</sup>

It is undeniable that the RFC has bolstered the capital structure of the banking system. But this is scarcely sufficient justification for the imposition of the degree of control which would follow from a failure of the banks to amortize this new capital at the rate of 5 per cent a year. If mere unification of supervisory control is the end in view, the federal government apparently has ample legal authority to bring this about directly, either by requiring all banks to take out national charters, or to become members of the Federal Reserve system.<sup>29</sup> On the other hand, if it is socialization of the banking system that is desired, it would seem that steps should be taken to purchase outright the present banks, or to establish new ones.

<sup>28</sup> 48 Stat. L. 7.

<sup>29</sup> See *Federal Reserve Bulletin*, March 1933, pp. 166-86.

## **APPENDIXES**

APPENDIX A  
BANK FAILURES

1. BANK FAILURES AND CAPITAL INVOLVED, 1864-96<sup>a</sup>

Year	National Banks		State Banks	
	Number of Failures	Total Capitalization	Number of Failures	Total Capitalization
1864.....	—	—	2	<sup>b</sup>
1865.....	1	\$ 50,000	5	\$ 125,000
1866.....	2	500,000	5	275,000
1867.....	6	1,170,000	3	260,000
1868.....	4	410,000	7	276,381
1869.....	1	50,000	6	100,000
1870.....	1	250,000	1	<sup>b</sup>
1871.....	—	—	7	220,000
1872.....	6	1,806,100	10	470,000
1873.....	11	3,825,000	33	907,000
1874.....	3	250,000	40	770,000
1875.....	5	1,000,000	14	2,413,900
1876.....	9	965,000	37	961,000
1877.....	10	3,344,000	63	2,491,250
1878.....	14	2,612,500	70	3,250,193
1879.....	8	1,230,000	20	1,370,465
1880.....	3	700,000	10	452,200
1881.....	—	—	9	436,750
1882.....	3	1,561,300	19	545,000
1883.....	2	250,000	27	870,000
1884.....	11	1,285,000	54	1,718,596
1885.....	4	600,000	32	1,099,400
1886.....	8	650,000	13	254,000
1887.....	8	1,550,000	19	931,590
1888.....	8	1,900,000	17	745,500
1889.....	2	250,000	15	363,250
1890.....	9	750,000	30	2,169,568
1891.....	25	3,622,000	44	2,071,300
1892.....	17	2,450,000	27	578,840
1893.....	65	10,935,000	261	16,641,637
1894.....	21	2,770,000	71	3,112,447
1895.....	34 <sup>c</sup>	5,235,020	115	3,906,350
1896.....	27	3,805,000	78	3,400,642
Not dated...	—	—	70	445,000
Total.....	328 <sup>c</sup>	\$55,775,920	1,234	\$53,632,259

<sup>a</sup> *Annual Report of the Comptroller of the Currency, 1896, Vol. I, pp. 53 and 515.* Totals are only for those years for which data are given; hence totals of columns two and four are not quite comparable.

<sup>b</sup> Data not available.

<sup>c</sup> Exclusive of two banks heretofore first in voluntary liquidation, then in the hands of receivers.

2. GEOGRAPHIC DISTRIBUTION OF BANK FAILURES, 1864-96<sup>a</sup>

Region and State	National Banks	State Banks
<b>NEW ENGLAND</b> .....	<b>13</b>	<b>72</b>
Maine .....	—	8
New Hampshire .....	3	22
Vermont .....	4	2
Massachusetts .....	3	15
Rhode Island .....	—	10
Connecticut .....	3	15
<b>MIDDLE ATLANTIC</b> .....	<b>61</b>	<b>267</b>
New York .....	34	92
New Jersey .....	4	10
Delaware .....	—	1
Pennsylvania .....	20	162
Maryland .....	—	2
District of Columbia .....	3	—
<b>NORTH CENTRAL</b> .....	<b>46</b>	<b>348</b>
Michigan .....	7	7
Wisconsin .....	3	31
Illinois .....	15	121
Indiana .....	10	77
Ohio .....	11	112
<b>SOUTHERN MOUNTAIN</b> .....	<b>14</b>	<b>31</b>
West Virginia .....	—	1
Virginia .....	6	13
Kentucky .....	1	12
Tennessee .....	7	5
<b>SOUTHEASTERN</b> .....	<b>20</b>	<b>30</b>
North Carolina .....	3	2
South Carolina .....	1	4
Georgia .....	4	9
Florida .....	5	7
Alabama .....	5	3
Mississippi .....	2	5
<b>SOUTHWESTERN</b> .....	<b>29</b>	<b>26</b>
Louisiana .....	4	7
Texas .....	20	11
Arkansas .....	4	1
Oklahoma .....	1	7
<b>WESTERN GRAIN</b> .....	<b>81</b>	<b>323</b>
Minnesota .....	4	31
North Dakota .....	7	13
South Dakota .....	8	27
Iowa .....	8	43
Nebraska .....	17	105
Missouri .....	9	74
Kansas .....	28	30
<b>ROCKY MOUNTAIN</b> .....	<b>22</b>	<b>79</b>
Montana .....	7	5
Idaho .....	—	7
Wyoming .....	2	8
Colorado .....	8	38
New Mexico .....	3	12
Arizona .....	—	3
Utah .....	1	5
Nevada .....	1	1
<b>PACIFIC COAST</b> .....	<b>30</b>	<b>58</b>
Washington .....	20	32
Oregon .....	5	10
California .....	5	16
<b>GRAND TOTAL</b> .....	<b>316<sup>a</sup></b>	<b>1,234</b>

<sup>a</sup> Annual Report of the Comptroller of the Currency, 1896, Vol. I, pp. 54 and 514. The totals are for those states for which data are given. Data for national banks do not include banks which were restored to solvency; hence totals do not agree with table on p. 245.

### 3. BANK SUSPENSIONS COMPARED WITH NUMBER OF ACTIVE BANKS, 1897-1933\*

Year	Active Banks (June 30)	Suspensions	Suspensions per 100 Active Banks
1897.....	8,030	92	1.15
1898.....	8,067	30	0.37
1899.....	8,320	18	0.22
1900.....	8,738	19	0.22
1901.....	9,814	24	0.24
1902.....	10,703	34	0.32
1903.....	11,825	35	0.30
1904.....	13,297	75	0.56
1905.....	14,682	45	0.31
1906.....	16,266	40	0.25
1907.....	17,891	70	0.39
1908.....	19,620	102	0.52
1909.....	20,307	45	0.22
1910.....	21,486	46	0.21
1911.....	22,592	63	0.28
1912.....	23,403	57	0.24
1913.....	24,308	88	0.36
1914.....	25,016	122	0.49
1915.....	25,345	113	0.45
1916.....	25,824	40	0.15
1917.....	26,309	34	0.13
1918.....	27,103	37	0.14
1919.....	27,425	61	0.22
1920.....	28,659	143	0.50
1921.....	29,417	461	1.57
1922.....	29,033	343	1.18
1923.....	28,890	623	2.16
1924.....	28,108	738	2.63
1925.....	27,639	579	2.09
1926.....	26,966	924	3.43
1927.....	25,909	636	2.45
1928.....	25,125	479	1.91
1929.....	24,258	628	2.59
1930.....	23,045	1,292	5.61
1931.....	21,123	2,213	10.48
1932.....	18,282	1,416	7.75
1933.....	13,864	1,783	12.86

\* Figures for active banks for the entire period and for national bank suspensions from 1897 to 1920 were taken from the *Annual Reports of the Comptroller of the Currency*. Suspensions of state banks from 1897 to 1920 were taken from the *Banking Inquiry* of 1925 and from Bradstreet's Commercial Agency. Suspensions from 1921 to 1930 were compiled by the Federal Reserve Committee on Branch, Group, and Chain Banking from data furnished by national and state authorities and differ slightly from those heretofore published by the Federal Reserve Board. See *Bank Suspensions in the United States*, p. 5. For 1931 and 1932 the suspension figures were compiled by the Division of Bank Operations of the Federal Reserve Board. The figures of both active banks and suspensions include trust companies and stock savings banks, but exclude private banks, industrial banks, and mutual savings banks. They include banks in territories and possessions. Figures for 1933 are not strictly comparable with those for other years. Active banks on June 30 include only licensed banks. Suspensions include only banks placed in liquidation or those restricted after having been licensed. At the end of 1933 there were still 1,905 non-licensed banks which had not been placed in liquidation. See *Federal Reserve Bulletin*, April 1934, p. 251 for suspensions and *Annual Report of the Comptroller of the Currency*, 1933, pp. 98, 116, and 119 for number of active banks.

**4. PERCENTAGE RATIO OF PAYMENTS TO CLAIMS OF UNSECURED DEPOSITORS  
OF NATIONAL BANKS LIQUIDATED, 1921-30\***  
Classified According to Region and State  
(Dollar items are in thousands)

Region and State	Number of Banks	Exclusive of Offsets			Off-sets	Inclusive of Offsets		
		Claims	Pay-ments	Ratio		Claims	Pay-ments	Ratio
<b>NEW ENGLAND.....</b>	<b>1</b>	<b>\$ 279</b>	<b>\$ 187</b>	<b>67.0</b>	<b>\$ 13</b>	<b>\$ 292</b>	<b>\$ 200</b>	<b>68.5</b>
Maine.....	—	—	—	—	—	—	—	—
New Hampshire.....	—	—	—	—	—	—	—	—
Vermont.....	—	—	—	—	—	—	—	—
Massachusetts.....	1	279	187	67.0	13	292	200	68.5
Rhode Island.....	—	—	—	—	—	—	—	—
Connecticut.....	—	—	—	—	—	—	—	—
<b>MIDDLE ATLANTIC.....</b>	<b>3</b>	<b>2,381</b>	<b>1,885</b>	<b>79.2</b>	<b>172</b>	<b>2,553</b>	<b>2,057</b>	<b>80.6</b>
New York.....	—	—	—	—	—	—	—	—
New Jersey.....	—	—	—	—	—	—	—	—
Delaware.....	—	—	—	—	—	—	—	—
Pennsylvania.....	2	2,129	1,714	80.5	165	2,294	1,879	81.9
Maryland.....	1	252	171	67.9	7	259	178	68.7
<b>NORTH CENTRAL.....</b>	<b>8</b>	<b>4,671</b>	<b>2,757</b>	<b>59.0</b>	<b>522</b>	<b>5,193</b>	<b>3,279</b>	<b>63.1</b>
Michigan.....	—	—	—	—	—	—	—	—
Wisconsin.....	2	664	153	23.0	68	732	221	30.2
Illinois.....	2	166	121	72.9	21	187	142	75.9
Indiana.....	1	946	709	74.9	81	1,027	790	76.9
Ohio.....	3	2,895	1,774	61.3	352	3,247	2,126	65.5
<b>SOUTHERN MOUNTAIN.....</b>	<b>2</b>	<b>366</b>	<b>332</b>	<b>90.7</b>	<b>49</b>	<b>415</b>	<b>381</b>	<b>91.8</b>
West Virginia.....	—	—	—	—	—	—	—	—
Virginia.....	1	176	156	88.6	33	209	189	90.4
Kentucky.....	—	—	—	—	—	—	—	—
Tennessee.....	1	190	176	92.6	16	206	192	93.2
<b>SOUTHEASTERN.....</b>	<b>21</b>	<b>3,288</b>	<b>1,802</b>	<b>54.8</b>	<b>297</b>	<b>3,585</b>	<b>2,099</b>	<b>58.5</b>
North Carolina.....	4	720	490	68.1	85	805	575	71.4
South Carolina.....	8	1,992	935	46.9	150	2,142	1,085	50.7
Georgia.....	5	329	142	43.2	50	379	192	50.7
Florida.....	—	—	—	—	—	—	—	—
Alabama.....	2	146	147	100.7	6	152	153	100.7
Mississippi.....	2	101	88	87.1	6	107	94	87.9
<b>SOUTHWESTERN.....</b>	<b>50</b>	<b>17,167</b>	<b>7,787</b>	<b>45.4</b>	<b>3,373</b>	<b>20,540</b>	<b>11,160</b>	<b>54.3</b>
Louisiana.....	1	37	14	37.8	38	75	52	69.3
Texas.....	21	10,575	5,130	48.5	2,374	12,949	7,504	58.0
Arkansas.....	3	733	626	85.4	73	806	699	86.7
Oklahoma.....	25	5,822	2,017	34.6	888	6,710	2,905	43.3
<b>WESTERN GRAIN.....</b>	<b>83</b>	<b>20,397</b>	<b>10,324</b>	<b>50.6</b>	<b>1,728</b>	<b>22,125</b>	<b>12,052</b>	<b>54.5</b>
Minnesota.....	13	3,487	1,914	54.9	268	3,755	2,182	58.1
North Dakota.....	21	3,901	1,584	40.6	280	4,181	1,864	44.6
South Dakota.....	16	3,505	1,640	46.8	260	3,765	1,900	50.5
Iowa.....	14	3,360	2,198	65.4	332	3,692	2,530	68.5
Nebraska.....	13	4,352	1,676	38.5	419	4,771	2,095	43.9
Missouri.....	2	489	313	64.0	32	521	345	66.2
Kansas.....	4	1,303	999	76.7	137	1,440	1,136	78.9
<b>ROCKY MOUNTAIN.....</b>	<b>86</b>	<b>17,449</b>	<b>7,418</b>	<b>42.5</b>	<b>2,674</b>	<b>20,123</b>	<b>10,092</b>	<b>50.2</b>
Montana.....	38	4,080	1,135	27.8	405	4,485	1,540	34.3
Idaho.....	17	3,774	1,401	37.1	738	4,512	2,139	47.4
Wyoming.....	8	2,606	1,709	65.6	414	3,020	2,123	70.3
Colorado.....	8	1,932	1,045	54.1	269	2,201	1,314	59.7
New Mexico.....	12	4,397	1,846	42.0	772	5,169	2,618	50.6
Arizona.....	2	625	277	44.3	69	694	346	49.9
Utah.....	1	35	5	14.3	7	42	12	28.6
Nevada.....	—	—	—	—	—	—	—	—
<b>PACIFIC COAST.....</b>	<b>13</b>	<b>2,491</b>	<b>1,542</b>	<b>61.9</b>	<b>399</b>	<b>2,890</b>	<b>1,941</b>	<b>67.2</b>
Washington.....	4	555	455	82.0	53	608	508	83.6
Oregon.....	4	631	215	34.1	69	700	284	40.6
California.....	5	1,305	872	66.8	277	1,582	1,149	72.6
<b>UNITED STATES.....</b>	<b>267</b>	<b>\$68,489</b>	<b>\$34,034</b>	<b>49.7</b>	<b>\$9,227</b>	<b>\$77,716</b>	<b>\$43,261</b>	<b>55.7</b>

\* Includes banks suspended during 1921-30 and completely liquidated at the time schedules were prepared for the Federal Reserve Committee on Branch, Group, and Chain Banking



**5. PERCENTAGE RATIO OF PAYMENTS TO CLAIMS OF UNSECURED DEPOSITORS  
OF STATE BANKS LIQUIDATED, 1921-30\***  
Classified According to Region and State  
(Dollar items are in thousands)

Region and State	Number of Banks	Exclusive of Offsets			Off-sets	Inclusive of Offsets		
		Claims	Payments	Ratio		Claims	Payments	Ratio
<b>NEW ENGLAND.....</b>	<b>1</b>	<b>\$ 1,612</b>	<b>\$ 1,612</b>	<b>100.0</b>	<b>\$ 653</b>	<b>\$ 2,265</b>	<b>\$ 2,265</b>	<b>100.0</b>
Maine.....	—	—	—	—	—	—	—	—
New Hampshire.....	—	—	—	—	—	—	—	—
Vermont.....	—	—	—	—	—	—	—	—
Massachusetts.....	—	—	—	—	—	—	—	—
Rhode Island.....	—	—	—	—	—	—	—	—
Connecticut.....	1	1,612	1,612	100.0	653	2,265	2,265	100.0
<b>MIDDLE ATLANTIC.....</b>	<b>4</b>	<b>843</b>	<b>791</b>	<b>93.8</b>	<b>326</b>	<b>1,169</b>	<b>1,117</b>	<b>95.6</b>
New York.....	—	—	—	—	—	—	—	—
New Jersey.....	—	—	—	—	—	—	—	—
Delaware.....	—	—	—	—	—	—	—	—
Pennsylvania.....	2	455	403	88.6	50	505	453	89.7
Maryland.....	2	388	388	100.0	276	664	664	100.0
<b>NORTH CENTRAL.....</b>	<b>30</b>	<b>5,677</b>	<b>3,891</b>	<b>68.5</b>	<b>463</b>	<b>6,140</b>	<b>4,354</b>	<b>70.9</b>
Michigan.....	2	673	399	59.3	313	986	712	72.2
Wisconsin.....	20	2,903	1,854	63.9	150	3,053	2,004	65.6
Illinois.....	2	835	522	62.5	—	835	522	62.5
Indiana.....	6	1,266	1,116	88.2	—	1,266	1,116	88.2
Ohio.....	—	—	—	—	—	—	—	—
<b>SOUTHERN MOUNTAIN.....</b>	<b>13</b>	<b>1,405</b>	<b>1,061</b>	<b>75.5</b>	<b>51</b>	<b>1,456</b>	<b>1,112</b>	<b>76.4</b>
West Virginia.....	—	—	—	—	—	—	—	—
Virginia.....	3	362	198	54.7	23	385	221	57.4
Kentucky.....	—	—	—	—	—	—	—	—
Tennessee.....	10	1,043	863	82.7	28	1,071	891	83.2
<b>SOUTHEASTERN.....</b>	<b>139</b>	<b>14,987</b>	<b>6,493</b>	<b>43.3</b>	<b>1,493</b>	<b>16,480</b>	<b>7,986</b>	<b>48.5</b>
North Carolina.....	1	14	14	100.0	—	14	14	100.0
South Carolina.....	12	1,951	1,432	63.7	140	2,091	1,383	66.1
Georgia.....	111	10,366	3,913	37.7	1,221	11,587	5,134	44.3
Florida.....	4	1,549	585	37.8	21	1,570	606	38.6
Alabama.....	9	798	429	53.8	111	909	540	59.4
Mississippi.....	2	309	309	100.0	—	309	309	100.0
<b>SOUTHWESTERN.....</b>	<b>99</b>	<b>9,577</b>	<b>4,752</b>	<b>49.6</b>	<b>485</b>	<b>10,062</b>	<b>5,237</b>	<b>52.0</b>
Louisiana.....	16	1,911	777	40.7	14	1,925	791	41.1
Texas.....	23	2,266	1,910	84.3	74	2,340	1,984	84.8
Arkansas.....	14	2,421	775	32.0	168	2,589	943	36.4
Oklahoma.....	46	2,979	1,290	43.3	229	3,208	1,519	47.4
<b>WESTERN GRAIN.....</b>	<b>524</b>	<b>81,120</b>	<b>45,008</b>	<b>55.5</b>	<b>4,072</b>	<b>85,192</b>	<b>49,080</b>	<b>57.6</b>
Minnesota.....	49	4,694	2,112	45.0	290	4,984	2,402	48.2
North Dakota.....	35	2,769	771	27.8	—	2,769	771	27.8
South Dakota.....	23	3,023	1,856	61.4	206	3,229	2,062	63.9
Iowa.....	176	37,655	19,082	50.7	2,342	39,997	21,424	53.6
Nebraska.....	15	2,946	2,946	100.0	44	2,990	2,990	100.0
Missouri.....	104	11,668	5,707	48.9	912	12,580	6,619	52.6
Kansas.....	122	18,365	12,534	68.2	278	18,643	12,812	68.7
<b>ROCKY MOUNTAIN.....</b>	<b>128</b>	<b>16,914</b>	<b>9,832</b>	<b>58.1</b>	<b>1,569</b>	<b>18,483</b>	<b>11,401</b>	<b>61.7</b>
Montana.....	22	1,975	693	35.1	692	2,667	1,385	51.9
Idaho.....	28	3,374	1,604	47.5	121	3,495	1,725	49.4
Wyoming.....	9	1,066	559	52.4	28	1,094	587	53.7
Colorado.....	62	8,989	5,941	66.1	571	9,560	6,512	68.1
New Mexico.....	4	1,388	924	66.6	155	1,543	1,079	69.9
Arizona.....	3	122	111	91.0	2	124	113	91.1
Utah.....	—	—	—	—	—	—	—	—
Nevada.....	—	—	—	—	—	—	—	—
<b>PACIFIC COAST.....</b>	<b>50</b>	<b>23,674</b>	<b>17,451</b>	<b>73.7</b>	<b>5,851</b>	<b>29,525</b>	<b>23,302</b>	<b>78.9</b>
Washington.....	32	17,727	12,915	72.9	5,607	23,334	18,522	79.4
Oregon.....	14	3,737	2,406	64.4	137	3,874	2,543	65.6
California.....	4	2,210	2,130	96.4	107	2,317	2,237	96.5
<b>UNITED STATES.....</b>	<b>988</b>	<b>\$155,809</b>	<b>\$90,891</b>	<b>58.3</b>	<b>\$14,963</b>	<b>\$170,772</b>	<b>\$105,854</b>	<b>62.0</b>

\* All banks suspended and completely liquidated at the time schedules were prepared for the Federal Reserve Committee on Branch, Group, and Chain Banking, except 142 for which information as to claims and payments was not available.

**6. BANK SUSPENSIONS DURING 1921-31<sup>a</sup>**  
By Volume of Loans and Investments

Loans and Investments by Size Groups	National Banks		State Banks		National and State Banks	
	Number	Per Cent	Number	Per Cent	Number	Per Cent
Under \$150,000.....	154	11.5	3,350	44.2	3,504	39.3
150,000 to 250,000....	253	18.9	1,501	19.8	1,754	19.7
250,000 to 500,000....	413	30.9	1,478	19.5	1,891	21.2
500,000 to 750,000....	170	12.7	481	6.3	651	7.3
750,000 to 1,000,000...	89	6.7	248	3.3	337	3.8
1,000,000 to 2,000,000...	157	11.8	285	3.8	442	5.0
2,000,000 to 5,000,000...	74	5.5	158	2.1	232	2.6
5,000,000 to 10,000,000...	20	1.5	47	0.6	67	0.7
10,000,000 to 50,000,000...	5	0.4	31	0.4	36	0.4
50,000,000 and over.....	1	0.1	1	0.01	2	0.02
Total.....	1,336	100.0	7,580	100.0	8,916	100.0

<sup>a</sup> *Bank Suspensions in the United States*, p. 51.

**7. BANK SUSPENSIONS, 1921-33<sup>a</sup>**  
(Dollar items are in thousands)

Year	National Banks		Non-Member State Banks		Member State Banks	
	Number	Gross Deposits	Number	Gross Deposits	Number	Gross Deposits
1921.....	52	\$ 20,777	390	\$ 125,159	19	\$ 17,363
1922.....	49	20,197	281	61,964	13	7,113
1923.....	90	34,244	501	99,544	32	12,559
1924.....	122	64,890	578	123,888	38	13,645
1925.....	118	55,574	433	94,447	28	9,883
1926.....	123	43,998	766	182,970	35	23,466
1927.....	91	45,547	514	131,503	31	17,942
1928.....	57	36,483	406	92,670	16	10,247
1929.....	64	41,614	547	164,858	17	16,459
1930.....	161	170,446	1,104	448,989	27	202,399
1931.....	409	439,171	1,697	935,947	107	293,957
1932.....	276	214,150	1,085	429,079	55	55,153
1933 <sup>b</sup> .....	539	1,057,349	1,170	672,259	74	535,365
Total.....	2,151	\$2,244,440	9,472	\$3,563,277	492	\$1,215,551

<sup>a</sup> Data, except for 1933, are from *Bank Suspensions in the United States*, pp. 12 and 14.

<sup>b</sup> Data for 1933 are from *Federal Reserve Bulletin*, April 1934, p. 251. Figures for this year include banks restricted after having been licensed, although they do not include banks to which licenses had not been issued. The inclusion of restricted banks prevents the figures for this year from being strictly comparable with those for other years.

APPENDIX B  
 SUPERVISION OF STATE BANK  
 LIQUIDATION, 1909<sup>1</sup>

I. THIRTY STATES IN WHICH THE SUPERVISOR MERELY  
 APPLIED FOR APPOINTMENT OF A RECEIVER

Alabama	State Treasurer applied through the Governor.
Arizona	State Auditor notified Governor and Attorney-General, who applied for receiver. Receiver reported to the Auditor.
Colorado	Bank Commissioner took possession and either reopened the bank or applied for a receiver.
Connecticut	Bank Commissioner applied for a receiver and asked for an injunction restraining operation of the bank in the interim.
Delaware	Insurance Commissioner took possession and applied through the Attorney-General for a receiver.
Florida	Comptroller applied for a receiver, who reported to the Comptroller.
Georgia	Bank Examiner took possession, with the consent of the Governor and the Attorney-General, and applied through them for a receiver. The receiver reported to the Examiner.
Idaho	Supervisor applied for a receiver.
Illinois	Auditor of Public Accounts applied through the Attorney-General for a receiver and asked for an injunction

<sup>1</sup> Samuel Weldon, "Digest of State Banking Statutes," *Report of the National Monetary Commission*, Vol. III; G. E. Barnett, "State Banks and Trust Companies," the same, Vol. VII, pp. 165-71.

	restraining operations in the interim. Receiver reported to the Auditor.
Indiana	Auditor applied for a receiver, directly, or through the Attorney-General. The receiver reported to the Auditor.
Iowa	Supervisor applied for a receiver.
Kentucky	Secretary of State, with the consent of the Attorney-General, applied for a re- ceiver.
Louisiana	Bank Examiner applied through the Au- ditor for a receiver.
Maine	Bank Commissioner applied for receiver.
Missouri	Bank Commissioner applied through the Attorney-General for a receiver. The law specifically stated that the Com- missioner could not be appointed re- ceiver.
Montana	State Examiner took possession on the di- rection of the Governor, and applied through the Attorney-General for a receiver.
Nebraska	State Banking Board applied through the Attorney-General for receiver, who reported to the Board. The Board could allow a bank to reopen.
New Hampshire	Board of Bank Commissioners applied for receiver and asked for an injunc- tion restraining operations in the in- terim. Receiver reported to the Board.
New Jersey	Commissioner of Banking and Insur- ance took possession. Attorney-Gen- eral or any stockholder or creditor could apply for a receiver.
New Mexico	Traveling Auditor and Bank Examiner took possession with the consent of the Governor, who requested the Attor- ney-General to apply for a receiver.
North Dakota	Supervisor applied for a receiver.
Ohio	Supervisor applied for a receiver.
Oregon	Bank Examiner applied through the

	Board of Bank Commissioners and the Attorney-General for a receiver.
Pennsylvania	Bank Commissioner applied through the Attorney-General for a receiver.
Tennessee	Secretary of State, with the consent of the Governor and Attorney-General, applied for a receiver.
Utah	Secretary of State, through the Attorney-General, applied for a receiver.
Vermont	—
Virginia	—
Washington	Bank Examiner applied through the Attorney-General for a receiver.
Wyoming	State Examiner applied through the Attorney-General for a receiver.

II. TWELVE STATES IN WHICH THE SUPERVISOR LIQUIDATED OR HAD CONTROL OF LIQUIDATION UNDER A COURT RECEIVER

California	—
Massachusetts	—
Michigan	Commissioner of Banking, through the Attorney-General, applied for receiver, who might be an employee of the Banking Department.
Minnesota	—
Nevada	Bank Examiner, through the Banking Board and the Attorney-General, applied for a receiver who reported to the Examiner. However, with the consent of the Board the Examiner was allowed to liquidate or reopen a bank.
New York	Superintendent of Banks liquidated or reopened closed institutions, but was allowed to apply for a receiver.
North Carolina	Corporation Commission applied for a receiver who was under the control of both the Commission and the Court. The Commission was empowered to reopen a bank.

Oklahoma	—
Rhode Island	Bank Commissioner, through the Board of Banks and Corporations, applied for a receiver. The Commissioner might be appointed.
South Dakota	—
Texas	Superintendent of Banks, or the State Banking Board through the Attorney-General, applied for a receiver. The Superintendent might be appointed.
Wisconsin	—

**III. FOUR STATES IN WHICH THE SUPERVISOR APPOINTED THE RECEIVER**

District of Columbia	Supervisor appointed receiver.
Kansas	Bank Commissioner applied for or appointed receiver. The owners of the majority of the deposits were permitted to require the appointment of their nominee.
Maryland	State Treasurer appointed receiver or reported to the Governor who could apply for receiver.
West Virginia	Commissioner of Banking appointed receiver with the consent of the Governor.

**IV. THREE STATES WHICH HAD NO SPECIAL LAWS REGARDING BANK LIQUIDATION**

Arkansas	Banks operated under the general corporation law.
Mississippi	No special laws.
South Carolina	The Bank Examiner merely reported violations of the law through the State Treasurer to the Legislature.

## APPENDIX C

### LICENSED BANKS, 1933-34

**1. NUMBER AND DEPOSITS OF LICENSED MEMBER BANKS, MARCH 15, 1933\***  
 Classified by Region and State  
 (Dollar items are in thousands)

Region and State	National Banks		State Member Banks	
	Number	Deposits	Number	Deposits
<b>NEW ENGLAND</b> .....	<b>256</b>	<b>\$ 1,422,680</b>	<b>22</b>	<b>\$ 441,839</b>
Maine.....	16	44,924	1	1,616
New Hampshire.....	40	34,710	—	—
Vermont.....	23	17,022	—	—
Massachusetts.....	117	1,087,978	16	185,449
Rhode Island.....	10	36,701	3	220,449
Connecticut.....	50	201,345	2	34,325
<b>MIDDLE ATLANTIC</b> .....	<b>1,190</b>	<b>6,438,204</b>	<b>204</b>	<b>6,698,810</b>
New York.....	386	3,830,148	86	5,275,881
New Jersey.....	190	547,354	50	466,733
Delaware.....	14	14,321	4	45,094
Pennsylvania.....	564	1,789,394	61	882,616
Maryland.....	28	146,842	3	28,486
District of Columbia.....	8	110,145	—	—
<b>NORTH CENTRAL</b> .....	<b>577</b>	<b>2,439,909</b>	<b>98</b>	<b>984,163</b>
Michigan.....	45	107,641	33	134,012
Wisconsin.....	75	272,226	5	31,295
Illinois.....	193	1,449,771	26	297,807
Indiana.....	83	144,523	3	26,785
Ohio.....	181	465,748	31	494,264
<b>SOUTHERN MOUNTAIN</b> .....	<b>309</b>	<b>584,253</b>	<b>22</b>	<b>121,054</b>
West Virginia.....	55	77,922	10	30,670
Virginia.....	114	215,935	6	37,659
Kentucky.....	75	133,602	5	31,473
Tennessee.....	65	156,794	1	21,252
<b>SOUTHEASTERN</b> .....	<b>217</b>	<b>508,263</b>	<b>34</b>	<b>114,674</b>
North Carolina.....	30	30,150	3	62,416
South Carolina.....	15	15,603	4	4,676
Georgia.....	47	178,600	19	28,033
Florida.....	41	133,011	2	1,462
Alabama.....	66	115,776	6	18,087
Mississippi.....	18	35,123	—	—
<b>SOUTHWESTERN</b> .....	<b>701</b>	<b>987,931</b>	<b>48</b>	<b>54,799</b>
Louisiana.....	18	80,651	2	18,751
Texas.....	435	631,873	42	34,450
Arkansas.....	35	37,261	3	1,411
Oklahoma.....	213	238,146	1	187
<b>WESTERN GRAIN</b> .....	<b>799</b>	<b>1,319,109</b>	<b>63</b>	<b>344,901</b>
Minnesota.....	191	458,038	2	384
North Dakota.....	63	39,437	—	—
South Dakota.....	64	38,639	10	4,327
Iowa.....	76	109,066	14	22,568
Nebraska.....	128	144,882	2	287
Missouri.....	80	377,506	29	312,908
Kansas.....	197	151,541	6	4,427
<b>ROCKY MOUNTAIN</b> .....	<b>210</b>	<b>389,958</b>	<b>47</b>	<b>86,282</b>
Montana.....	47	56,064	11	20,160
Idaho.....	18	12,177	9	11,170
Wyoming.....	25	26,920	4	1,007
Colorado.....	72	179,821	4	16,228
New Mexico.....	21	15,324	2	611
Arizona.....	8	18,554	2	6,824
Utah.....	13	42,114	15	30,282
Nevada.....	6	8,984	—	—
<b>PACIFIC COAST</b> .....	<b>247</b>	<b>2,134,838</b>	<b>33</b>	<b>512,620</b>
Washington.....	58	177,402	20	28,947
Oregon.....	60	146,797	5	1,331
California.....	129	1,810,639	8	482,342
<b>UNITED STATES</b> .....	<b>4,506</b>	<b>\$16,195,145</b>	<b>571</b>	<b>\$9,359,142</b>

\* Data furnished by Federal Reserve Board, Division of Bank Operations. Mutual savings banks are not included. Deposits in some cases are as of Dec. 31, 1932.

**2. NUMBER AND DEPOSITS OF LICENSED BANKS, APRIL 12, 1933\***  
 Classified by Region and State  
 (Dollar items are in thousands)

Region and State	National Banks		State Member Banks		Non-Member Banks	
	Number	Deposits	Number	Deposits	Number	Deposits
<b>NEW ENGLAND.....</b>	<b>293</b>	<b>\$ 1,494,410</b>	<b>23</b>	<b>\$ 444,026</b>	<b>181</b>	<b>\$ 496,519</b>
Maine.....	24	61,567	1	1,616	25	73,041
New Hampshire.....	48	50,977	1	1,000	13	20,355
Vermont.....	28	25,207	—	—	—	—
Massachusetts.....	127	1,109,944	16	185,449	62	194,131
Rhode Island.....	10	36,701	3	220,449	8	24,202
Connecticut.....	56	210,014	2	35,512	73	184,790
<b>MIDDLE ATLANTIC.....</b>	<b>1,256</b>	<b>6,525,128</b>	<b>212</b>	<b>6,756,336</b>	<b>710</b>	<b>1,825,998</b>
New York.....	395	3,843,656	88	5,300,503	222	779,477
New Jersey.....	207	568,811	51	468,778	102	345,812
Delaware.....	15	14,976	4	45,094	26	44,841
Pennsylvania.....	599	1,837,407	65	894,967	290	476,575
Maryland.....	32	150,133	4	46,994	58	86,290
District of Columbia.....	8	110,145	—	—	12	93,003
<b>NORTH CENTRAL.....</b>	<b>668</b>	<b>2,530,020</b>	<b>126</b>	<b>1,032,863</b>	<b>1,390</b>	<b>768,310</b>
Michigan.....	48	108,336	40	149,662	159	99,894
Wisconsin.....	83	290,209	9	38,723	197	122,851
Illinois.....	227	1,468,212	37	312,881	382	152,348
Indiana.....	104	170,513	4	27,078	313	172,391
Ohio.....	206	492,750	36	504,519	339	220,826
<b>SOUTHERN MOUNTAIN.....</b>	<b>328</b>	<b>612,724</b>	<b>28</b>	<b>128,315</b>	<b>864</b>	<b>344,574</b>
West Virginia.....	59	90,008	10	30,670	97	69,385
Virginia.....	119	227,286	10	38,598	197	93,658
Kentucky.....	84	138,332	5	31,473	316	121,933
Tennessee.....	66	157,098	3	27,574	254	59,598
<b>SOUTHEASTERN.....</b>	<b>226</b>	<b>511,858</b>	<b>38</b>	<b>116,384</b>	<b>807</b>	<b>244,210</b>
North Carolina.....	32	31,616	4	62,899	146	64,252
South Carolina.....	15	15,602	4	4,676	85	27,074
Georgia.....	48	178,777	21	28,695	197	38,325
Florida.....	44	133,682	2	1,462	94	36,200
Alabama.....	66	115,778	7	18,652	126	18,982
Mississippi.....	21	36,403	—	—	159	59,377
<b>SOUTHWESTERN.....</b>	<b>727</b>	<b>992,916</b>	<b>54</b>	<b>60,238</b>	<b>870</b>	<b>258,367</b>
Louisiana.....	20	79,347	2	18,751	119	94,946
Texas.....	448	629,257	46	35,465	438	106,227
Arkansas.....	45	45,770	5	5,835	130	21,947
Oklahoma.....	214	238,542	1	187	183	35,247
<b>WESTERN GRAIN.....</b>	<b>819</b>	<b>1,329,262</b>	<b>71</b>	<b>353,588</b>	<b>2,030</b>	<b>481,660</b>
Minnesota.....	198	459,915	2	502	269	81,856
North Dakota.....	67	41,445	—	—	101	10,805
South Dakota.....	64	38,639	10	4,327	131	18,226
Iowa.....	81	112,358	15	22,651	227	95,759
Nebraska.....	129	145,259	3	429	243	36,799
Missouri.....	82	379,871	35	322,302	502	134,270
Kansas.....	198	151,775	6	3,377	557	103,945
<b>ROCKY MOUNTAIN.....</b>	<b>217</b>	<b>367,157</b>	<b>49</b>	<b>87,023</b>	<b>284</b>	<b>111,276</b>
Montana.....	47	56,064	11	20,316	69	15,120
Idaho.....	22	13,744	9	11,170	46	16,702
Wyoming.....	25	26,920	5	1,351	38	11,457
Colorado.....	72	179,819	4	16,228	60	15,489
New Mexico.....	23	20,331	2	6,511	18	3,872
Arizona.....	8	18,553	2	6,824	9	18,756
Utah.....	14	42,542	16	30,523	39	27,143
Nevada.....	6	8,984	—	—	5	2,737
<b>PACIFIC COAST.....</b>	<b>255</b>	<b>2,131,074</b>	<b>35</b>	<b>512,861</b>	<b>256</b>	<b>489,147</b>
Washington.....	63	175,615	21	28,498	85	28,159
Oregon.....	57	140,582	5	1,572	48	18,391
California.....	135	1,814,877	9	482,791	123	442,597
<b>UNITED STATES.....</b>	<b>4,789</b>	<b>\$16,494,549</b>	<b>636</b>	<b>\$9,491,634</b>	<b>7,392</b>	<b>\$5,020,061</b>

\* Data furnished by Federal Reserve Board, Division of Bank Operations. Mutual savings banks are not included. Deposits in some cases are as of Dec. 31, 1932



**3. NUMBER AND DEPOSITS OF LICENSED BANKS, DECEMBER 27, 1933\***  
 Classified by Region and State  
 (Dollar items are in thousands)

Region and State	National Banks		State Member Banks		Non-Member Banks	
	Number	Deposits	Number	Deposits	Number	Deposits
<b>NEW ENGLAND</b> .....	332	\$ 1,578,839	35	\$ 397,448	174	\$ 539,009
Maine.....	40	91,175	5	21,951	24	53,009
New Hampshire.....	52	55,121	1	1,118	13	21,000
Vermont.....	40	37,863	—	—	2	10,025
Massachusetts.....	133	1,145,024	21	192,951	58	188,598
Rhode Island.....	10	35,754	2	130,915	9	105,122
Connecticut.....	57	213,902	6	50,513	68	161,255
<b>MIDDLE ATLANTIC</b> .....	1,388	6,320,475	238	6,733,661	745	1,779,560
New York.....	442	3,562,480	106	5,273,567	211	712,847
New Jersey.....	223	559,226	52	421,054	109	366,148
Delaware.....	15	14,512	4	44,463	26	44,841
Pennsylvania.....	640	1,851,085	68	867,676	289	476,847
Maryland.....	59	204,264	6	77,625	100	133,953
District of Columbia.....	9	128,908	2	49,276	10	44,924
<b>NORTH CENTRAL</b> .....	760	2,987,090	188	1,115,262	1,841	935,418
Michigan.....	70	320,340	57	157,751	177	144,098
Wisconsin.....	90	277,476	12	40,217	354	169,984
Illinois.....	261	1,627,194	63	408,901	547	195,333
Indiana.....	113	199,692	5	26,700	385	184,267
Ohio.....	226	562,388	51	481,693	378	241,736
<b>SOUTHERN MOUNTAIN</b> .....	359	666,274	47	123,155	833	331,522
West Virginia.....	69	93,456	15	32,795	83	62,226
Virginia.....	129	239,023	21	51,654	171	84,512
Kentucky.....	92	135,547	7	30,803	322	124,115
Tennessee.....	69	198,248	4	7,903	257	60,669
<b>SOUTHEASTERN</b> .....	245	564,001	62	143,645	825	239,927
North Carolina.....	40	49,317	9	83,306	151	62,991
South Carolina.....	16	28,576	4	5,443	93	27,110
Georgia.....	59	198,369	26	30,058	193	34,686
Florida.....	46	129,276	3	4,479	92	32,632
Alabama.....	69	118,678	17	19,631	121	17,327
Mississippi.....	24	39,785	3	728	175	65,181
<b>SOUTHWESTERN</b> .....	735	1,137,675	63	65,123	885	209,973
Louisiana.....	25	163,910	3	20,362	116	54,221
Texas.....	447	683,825	49	27,695	434	99,071
Arkansas.....	46	46,960	10	16,847	145	24,346
Oklahoma.....	217	242,980	1	219	190	32,335
<b>WESTERN GRAIN</b> .....	852	1,394,333	114	390,030	2,412	594,212
Minnesota.....	205	477,445	11	3,155	469	151,030
North Dakota.....	68	44,231	—	—	127	15,602
South Dakota.....	63	39,051	20	6,583	129	17,688
Iowa.....	106	140,376	22	41,075	366	138,997
Nebraska.....	128	154,156	7	2,255	267	39,451
Missouri.....	86	390,143	43	327,666	495	130,434
Kansas.....	196	148,931	11	9,296	559	101,010
<b>ROCKY MOUNTAIN</b> .....	225	362,786	58	98,456	272	95,785
Montana.....	47	55,200	15	21,366	67	15,026
Idaho.....	25	17,056	8	15,761	35	9,757
Wyoming.....	25	28,248	7	2,064	30	9,645
Colorado.....	74	178,642	4	15,136	76	16,334
New Mexico.....	25	20,267	2	600	16	3,560
Arizona.....	8	17,003	4	12,491	7	13,642
Utah.....	14	36,631	18	31,038	35	24,937
Nevada.....	7	9,739	—	—	6	2,884
<b>PACIFIC COAST</b> .....	256	2,103,894	41	535,481	266	448,286
Washington.....	68	194,897	25	35,976	100	24,237
Oregon.....	51	155,293	4	1,332	45	17,520
California.....	137	1,753,704	12	498,173	121	406,529
<b>UNITED STATES</b> .....	<b>15,152</b>	<b>\$17,115,367</b>	<b>846</b>	<b>\$9,602,261</b>	<b>8,253</b>	<b>\$5,173,692</b>

\* Data furnished by Federal Reserve Board, Division of Bank Operations, Feb. 9, 1934. Deposit figures of national and state members are October 25 deposits of banks licensed December 27. Exclusive of mutual savings banks. Non-member deposits are as of Dec. 31, 1932 or latest available call date.

258 *CLOSED AND DISTRESSED BANKS*

4. NUMBER AND DEPOSITS OF LICENSED AND UNLICENSED BANKS,  
June 27, 1934<sup>a</sup>  
(Dollar items are in thousands)

a. All Member Banks

Federal Reserve District	Number of Banks			Deposits <sup>b</sup>		
	Total	Li-censed	Not Li-censed <sup>c</sup>	Total	Licensed	Not Licensed
Boston.....	374	372	2	\$ 2,080,009	\$ 2,079,219	\$ 790
New York.....	795	788	7	10,496,636	10,485,505	11,131
Philadelphia.....	660	644	16	2,181,982	2,148,484	33,498
Cleveland.....	613	631	18	2,340,363	2,312,025	28,338
Richmond.....	401	394	7	1,140,642	1,135,823	4,819
Atlanta.....	329	324	5	962,405	954,757	7,648
Chicago.....	676	660	16	3,428,315	3,418,826	9,489
St. Louis.....	396	383	13	1,018,769	1,011,758	7,011
Minneapolis.....	540	531	9	788,590	784,021	4,569
Kansas City.....	746	735	11	1,215,876	1,212,501	3,375
Dallas.....	557	554	3	940,189	939,581	608
San Francisco.....	388	381	7	2,992,304	2,989,199	3,105
Total.....	6,493	6,379	114	\$29,586,080	\$29,471,699	\$114,381

b. Non-Member Banks

Boston.....	180	173	7	\$ 437,743	\$ 416,014	\$ 21,729
New York.....	314	305	9	968,024	949,805	18,219
Philadelphia.....	260	250	10	404,658	390,252	14,406
Cleveland.....	652	617	35	529,724	486,511	43,213
Richmond.....	648	622	26	399,492	392,898	6,594
Atlanta.....	726	715	11	209,650	206,592	3,058
Chicago.....	1,950	1,730	220	904,028	813,101	90,927
St. Louis.....	1,330	1,247	83	338,705	324,929	13,776
Minneapolis.....	920	887	33	202,748	195,987	6,761
Kansas City.....	1,324	1,275	49	261,331	254,549	6,782
Dallas.....	486	479	7	123,434	122,110	1,324
San Francisco.....	349	330	19	436,533	429,088	7,445
Total.....	9,139	8,630	509	\$5,216,070	\$4,981,836	\$234,234

<sup>a</sup> Federal Reserve Bulletin, July 1934, pp. 496-97. Mutual savings banks are not included.

<sup>b</sup> For member banks deposits are as of Mar. 5, 1934, and for non-member banks as of Dec. 30, 1933 or nearest available prior call date.

<sup>c</sup> Includes 58 national banks whose Federal Reserve bank stock had been cancelled and membership terminated but which, on June 27, 1934, were still included in the Comptroller of the Currency's records of unlicensed banks.

## APPENDIX D

### BANK REORGANIZATION AND LIQUIDATION IN THE STATE OF WASHINGTON<sup>1</sup>

State regulation of banking in Washington began with the law of March 16, 1907, which created the office of Bank Examiner. Private banks were forbidden to operate after January 1, 1915. In 1917 a new banking code broadened the powers of the State Banking Department, which prior thereto had been comparatively restricted.

In 1930 there were in Washington 226 state banks with capital resources of nearly 26 million dollars and 106 national banks with capital resources of over 40 million. By October 1933 the number of state banks had dropped to 148, with capital resources of \$16,724,000; that of national banks to 70, with capital resources of \$30,816,000.

The proportionate decline in the number and capital of banks in Washington was smaller than it was in the country as a whole. From 1930 to 1933 deposits in state banks shrank from 206 million dollars to 113 million; in national banks from 282 million to 199 million. Loans and discounts made by state banks dropped from 134 million dollars to 65 million and by national banks from 148 million to 76 million, a liquidation of nearly one-half. Total resources of state banks fell from 238 million dollars to 134 million, and of national banks from 338 million to 248 million.<sup>2</sup>

*Suspensions.* From 1891, the year of the first national bank failure in Washington, through 1914, 26 such in-

<sup>1</sup> Contributed by Howard H. Preston.

<sup>2</sup> State bank data for 1933 include 18 banks under stabilization which had trust deposits and resources in trust of \$970,000, and total resources of \$4,500,000. National bank data are for licensed banks on October 25.

260 *CLOSED AND DISTRESSED BANKS*

stitutions suspended, all but five in the years 1893-95. Their capital totalled \$2,860,000, their deposits about \$4,400,000.<sup>a</sup> There were no national bank failures in the decade 1914-24, but since then receivers have been appointed for 24, three of them since the 1933 bank holiday. These banks had capital of \$2,750,000 and deposits

BANK SUSPENSIONS IN WASHINGTON, 1921-33<sup>a</sup>  
(Dollar items are in thousands)

Year	Number	Capital	Resources <sup>b</sup>
1921.....	11	\$2,222	\$28,622
1922.....	4	110	1,023
1923 <sup>c</sup> .....	5	110	1,240
1924.....	7	250	1,911
1925 <sup>d</sup> .....	4	110	947
1926.....	—	—	—
1927 <sup>e</sup> .....	4	350	4,892
1928 <sup>f</sup> .....	2	115	942
1929.....	6	180	1,446
1930.....	2	70	277
1931.....	16	790	8,528
1932 <sup>g</sup> .....	23	2,275	28,874
1933 <sup>h</sup> .....	11	700	6,378
Total.....	95	\$7,282	\$85,080

<sup>a</sup> Compiled from reports of the Supervisor of Banking, press releases and other sources.

<sup>b</sup> As of December 31 preceding failure.

<sup>c</sup> One reopened, capital \$10,000, resources \$258,000.

<sup>d</sup> One reopened, capital \$25,000, resources \$334,000.

<sup>e</sup> One reopened, capital \$25,000, resources \$98,000.

<sup>f</sup> One reopened, capital \$15,000, resources \$280,000.

<sup>g</sup> Two reopened, capital \$200,000, resources \$1,669,000.

<sup>h</sup> Only those having been placed in liquidation.

of about \$20,000,000. Seventeen of these institutions are still in liquidation.

Between 1892 and 1896 about 30 state banks failed in Washington, and probably 20 private banks also suspended. Data prior to 1915, when the Banking Department took over liquidation, are very uncertain, but it is

<sup>a</sup> Deposits exclusive of two banks which were reorganized in 1893. One of these failed again in 1895, and thus appears twice among the 26.

known that 14 institutions failed between 1907 and that date. From 1915 to 1919 eight more suspended, with capital of \$470,000 and resources approximating \$4,500,000. Two of these were reopened.

Washington's banking troubles really began in 1921. The record of suspensions for 1921-33 is shown in the table on page 260.

In Washington, as in the rest of the country, most of the suspensions have been among the small banks. Since the enactment of the National Bank Act, exactly half of the 50 national banks failing in Washington had capital of \$50,000 or less. Only five had more than \$200,000 capital. Of the 48 national banks for which deposit totals are available, 29 had \$200,000 or less, and only three had more than \$1,500,000. The following table compares the number of state and national banks of different sizes which failed during the years 1930-33.

STATE AND NATIONAL BANK FAILURES IN WASHINGTON, 1930-33<sup>a</sup>  
iv. Classified According to Capital and Deposits

Capital	National		Deposits <sup>b</sup>	National	
	State	National		State	National
\$25,000 and less....	30	5	\$100,000 and less.....	11	2
25,001 to 50,000.	9	3	100,001 to 200,000	11	5
50,001 to 75,000.	2	2	200,001 to 300,000	8	0
75,001 to 100,000.	5	2	300,001 to 400,000	9	1
100,001 to 200,000.	3	3	400,001 to 500,000	5	1
200,001 and over ...	3	1	500,001 to 1,500,000	4	5
			1,500,001 and over....	4	2
Total.....	52	16	Total.....	52	16

<sup>a</sup> Compiled from reports of the Supervisor of Banking, press releases, and other sources.

<sup>b</sup> For state banks, as of December 31 preceding failure; for national banks, as of date of failure.

The larger bank failures have, however, tied up a much greater amount of funds than did those of the small banks. Among the state banks which failed during 1930-33, ten had resources of a million dollars or more,

while 42 had resources of less than a million. But the total resources of the ten large banks were about 30.5 million dollars, while the resources of the 42 small banks amounted to only about 11 million. Thirteen large bank suspensions during 1921-33 tied up \$62,978,000 in resources, while 82 small failures involved only \$22,102,000.

*The 1933 crisis.* On Thursday, March 2, the states of California and Oregon proclaimed banking holidays. A holiday was proposed for Washington but the banks did not present a united front and the Governor took no action. By noon of March 2 the banks in Seattle and other large cities were subjected to severe runs, but they maintained payments except for a limited time when the Seattle branch of the Federal Reserve Bank ran out of cash. The Governor was then forced to proclaim a state holiday effective the morning of the following day. Before this holiday expired the national holiday was proclaimed. Prior to this the Bank Stabilization Act had been approved.

*The Bank Stabilization Act.*<sup>4</sup> The Bank Stabilization Act was introduced, passed, and approved by Governor Martin in a single day—March 1, 1933. It repealed and superseded a bank stabilization bill passed a few days earlier.<sup>5</sup> The law was declared an emergency measure and made immediately effective.

The principal provisions of this act are as follows:<sup>6</sup>

A. Method of placing a bank under stabilization

Permission granted at discretion of Supervisor of Banking after receipt of application for stabilization made by the directors.

<sup>4</sup> Officially designated Chap. 49, Wash. Laws, 1933; in its legislative career known as S.B. 389.

<sup>5</sup> Laws of 1933, Chap. 44.

<sup>6</sup> "Bank" includes savings banks, mutual savings banks, state banks, and trust companies.

**B. Effect of stabilization****1. As to former business:**

Postpones, for initial period of 90 days and for additional periods as deemed expedient by Supervisor, the payment of demands by depositors, in whole or in part, as determined by the Supervisor on the basis of the bank's ability to pay withdrawals. Accounts may be classified by the Supervisor and withdrawals therefrom varied for each of the classes.

**2. As to new business:**

a. Loans and investments may be made only with approval of Supervisor.

b. Deposits received while under stabilization and for 60 days thereafter must be kept separate from other assets, shall not draw interest, shall be withdrawable upon demand, and shall not be loaned or invested except

(1) By depositing with Reserve Banks, or

(2) By investing in liquid securities approved by the Supervisor.

**C. Reorganization after stabilization**

1. Proposals furnished by Supervisor at request of the directors of the stabilized bank.

**2. Considerations for**

a. "Best interest" of the banks' creditors and of the community.

b. Temporary ratable reductions of the demands of creditors such as will leave its reserve adequate and its capital and surplus unimpaired after the charging off of bad and doubtful debts.

3. The owners of at least three-fourths of the unsecured credits must approve the plan within 90 days after filing the plan with the Supervisor before it will be declared effective. Unsecured creditors will thereupon have their demands ratably reduced. The rights of unsecured creditors will be unaffected except that any deficiency to which they may be entitled shall be reduced ratably with unsecured demands.

4. Stockholders will not be entitled to any dividends or distribution of assets until there has been set aside and credited to the claimants the equivalent of their reductions under the reorganization plan.

*Bank rehabilitation.* The reopening of national banks and state member banks in clearing-house cities took the same course in Washington as elsewhere. State banks were reopened gradually without restrictions or placed under the Stabilization Act. Even those that were ultimately closed and liquidated went under the stabilization law as a transition step.

A total of 55 banks were placed under stabilization, and 13 others were "stabilized" by other means; two state banks ceased operations under the President's holiday proclamation and did not reopen; two ceased operations under local moratoria; and others suspended by other means. Twelve of those placed under the State Stabilization Law, of which ten are non-members, were still under stabilization on January 2, 1934<sup>7</sup>; eleven, of which nine are non-members, had been closed and were in process of liquidation; two, both non-members, had been closed and absorbed by other banks; 41, of which 36 are non-members, had been reorganized and were operating under a plan approved by the creditors and the State Banking Department; two, one a non-member, were classed as "no action" banks, remaining under the Presidential holiday.<sup>8</sup>

At least two banks, one a member of the Federal Reserve system, were offered a license to open without restriction following the banking holiday, but elected to refuse this privilege in order to go under the Stabilization Law. They are now being reorganized.

In order to qualify in the blue-ribbon division (banks open after the holiday without restriction) stockholders of the state banks of Washington put approximately

<sup>7</sup> Three were reopened and two closed for liquidation by March 15.

<sup>8</sup> By March 15 one of these had opened, the other closed.



\$1,125,000 in new capital into the institutions during the holiday period, which was approximately 17 per cent of the total capital of all unrestricted banks. In the light of subsequent events it seems likely that there was too great anxiety to obtain a charter to open without restriction immediately upon suspension of the banking holiday. A number of banks which opened without restriction have since been forced to make further readjustments and could not secure any concessions from the depositors. One state bank which was licensed by the Federal Reserve system on March 15, 1933 went under stabilization December 29, 1933.

*Reorganization.* Forty-one banks were reorganized from March 20, 1933 to January 2, 1934.<sup>9</sup> Five of them were members of the Federal Reserve system.

All banks under stabilization were granted the maximum period of 90 days when first stabilized to perfect reorganization plans. Thereafter extensions were granted where necessary as prescribed by the law. Generally speaking the extensions were made for varying periods in the light of the condition shown at the expiration of the first or subsequent period. It was felt by the Supervisor of Banking that banks should be put under the necessity of working out their reorganization programs as rapidly as possible. Consequently, they were not allowed to proceed on the assumption that renewals for an indefinite time would be authorized.

The attached plan for reopening of the X state bank is an actual case and is typical of that used in most reorganizations. As a general principle the Supervisor has undertaken to work out a plan under which the stockholders contribute in cash to the capital stock the same proportion as the depositors waive for the time being. An examination of the statistics of reorganized banks shows that this basic principle has been strictly applied

<sup>9</sup> By March 15 four more had reopened.

in only a few cases. In some instances stockholders had already been assessed or were so nearly ruined by other adverse conditions that they were unable to pay in additional capital.

Many of the reorganized state banks have capital of less than \$25,000, the minimum permitted for any state bank since 1929. No effort is being made to increase the capital at this time.

There are a number of cases which require special comment. Two banks were affiliates of the First National Bank when that bank was reopened. Five are members of the Old National group and were reorganized and opened when the Old National was rehabilitated. The balances held by these banks in the Old National were made 100 per cent available, which enabled the banks to reopen without deposit waiver. It may be noted that the reorganization process practically eliminated several other groups in Washington.

At least five of the 41 banks reorganized since the banking holiday were never formally placed under stabilization. Three merely remained closed until reorganized, two had ceased operations under a local moratorium and awaited reorganization.

With the exception of one bank which was closed and then reorganized, the waiver upon deposits is a temporary one. As was noted above in our discussion of the Bank Stabilization Act, no dividends can be paid to stockholders until all of the claims of depositors have been fully met.<sup>30</sup> It will mean, in some cases, an indefinite period before the bank owners can receive any profit from the institution. Of course, an increase in the value of assets would alleviate this condition.

<sup>30</sup> More specifically the procedure is as follows: The bank first pays interest on capital notes, if any. Of the remainder of the income, 40 per cent is applied to the retirement of capital notes. From the other 60 per cent of the remainder, all waivers must be refunded; but any balances not needed for this purpose may be used to pay dividends on common stock.

In 26 of the reorganizations there were waivers of deposits, assessments on stockholders, or both. In the 23 cases in which deposits were waived, the relinquishment varied from 20 to 90 per cent. The total amount waived was \$1,836,000, or 44 per cent of the total amount of deposits subject to waiver.

In only 15 cases were there assessments on stockholders. These varied from 20 to 100 per cent of capital. The stockholders of four banks were assessed the maximum. Total assessments amounted to \$199,000, or 62 per cent of the total capital, which was \$317,000. For the eleven organizations in which the stockholders were not assessed, depositors waived \$812,000, or 33 per cent of total deposits of \$2,450,000. For the three in which no deposits were waived, stockholders were assessed \$41,000, or 59 per cent of their holdings.

In general, the Supervisor's plan that stockholders should contribute as great a proportion of their holdings as depositors waived of their balances was not achieved. In the group of 26 banks as a whole, the depositors waived an amount over nine times as great as the total of assessments on stockholders. Over 41 per cent of all deposits were relinquished. Stock assessments were only 34 per cent of total capital of \$577,000. Specifically, in only five cases were the waivers and assessments of approximately the same proportion.

It cannot be said, however, that the depositors have been discriminated against in these reorganizations. In the first place, they have a lien prior to that of stockholders on future earnings. Furthermore, had the banks been placed in liquidation, depositors would probably have lost practically as much as they waived, perhaps more, and would have had no possibility of future recoveries. Finally, stockholders' contributions, as has been stated, were as large as it was practicable to collect.

A brief statement of the experience of national banks in Washington during 1933 offers an interesting com-

parison. In that year 21 of these institutions experienced difficulty. Of this number three were placed in liquidation, one was absorbed by another bank, twelve were reorganized and reopened, five were still under conservators, with plans for reorganization under discussion.<sup>11</sup> Of the reopened banks, four took depositors' waivers of from 19 to 60 per cent, and in three stockholders contributed to the full extent of their double liability.

*Aid by federal agencies.* The Reconstruction Finance Corporation and, to a lesser degree, other federal agencies, have extended aid to both national and state banks in Washington. In the first place, these institutions helped to liquefy the assets of going banks, thereby forestalling suspension, by advancing cash on frozen loans and investments. Second, funds have been furnished to restore the capital of reorganized banks. Third, cash is being loaned to receivers of banks in liquidation to make possible the distribution of frozen deposits. And finally, going institutions have been further strengthened with additional capital funds, chiefly to qualify them for the insurance of deposits.

The greater part of the funds advanced by the RFC went to banks which were found to be inadequately capitalized, that is, with insufficient total assets to meet depositors' claims. By purchasing capital obligations of the banks, the RFC increased their assets without adding to their deposits or bills payable.

Under Washington law, as construed by the Attorney-General, all bank stock must carry double liability. Consequently, in this state the RFC is purchasing capital notes or debentures. The maturity on such issues has been set as 20 years, and dividends on common stock are not limited as interest is paid on debentures.

Except for the maturity feature, these capital notes are equivalent to preferred stock, as they are junior to the

<sup>11</sup> Of these, four had reopened at the time of writing.

claims of depositors in the event of liquidation. They will not appear as capital on the bank's balance sheet, but will be shown in a footnote. That is, the former common stock will be "starred" and a footnote will say: "Includes proceeds of \$———— debentures sold to the Reconstruction Finance Corporation which debentures are subordinated to rights of depositors and creditors."

The state authorities have co-operated in the nationwide movement aimed at encouraging all banks to issue preferred stock, whether they need the funds or not. A legal problem is presented, however. The state banking law forbids any bank to lower its capital below the minimum now required by law, which in the smaller towns is \$25,000, although it may continue to operate on its present capital even though that capital is below the minimum now required for organization of a new bank. Consequently, if a bank should have a present capital of \$15,000, as many do, and raise it to \$30,000 by selling preferred stock, the opinion is that it would be unable, at a later date, to retire the preferred shares below the minimum capital of \$25,000.

In order to facilitate the work of issuing capital notes to non-member banks in the state of Washington, a representative of the RFC maintained an office in the Banking Department at Olympia. A special advisory committee was created consisting of the Supervisor of Banking, one representative each of the Federal Deposit Insurance Corporation and the Reconstruction Finance Corporation, and two Washington bankers. All non-member bank applications were passed upon by this committee and when approved forwarded direct to Washington, D.C. The three agencies of the RFC which cover Washington territory—Seattle, Spokane, and Portland, were merely notified by the committee; their confirmation of the recommendations was not required.

As a general rule the RFC matches sound capital of banks; for example, if a bank with \$50,000 capital is found to have a capital impairment of \$25,000 but no more, the RFC will take capital notes to that amount. In some instances, where this is not sufficient, the RFC has put up both halves by indirect methods. For instance, a mortgage holding company with nominal capital has sometimes been created by the bank directors. To this company directors of the bank turn over certain assets of the bank or even mortgages on their own property. The holding company then borrows, let us say, \$25,000 from the RFC on this collateral and with the proceeds buys doubtful assets of the bank, thus putting into the bank \$25,000 of new money and leaving it with sound capital of that amount. The RFC then matches the capital of the bank. In this way by an indirect process the RFC supplies all the new capital.

The Banking Department succeeded in one way or another in making every state bank applicant solvent and eligible for deposit insurance under the *temporary* plan.<sup>12</sup> So far as the permanent plan is concerned, the attitude of the Department is that the deposit insurance law may be amended; or if not, there are two years in which to make the needed changes. Consequently, capital increases and other necessary steps to qualify for Federal Reserve membership are not now being made.

Information as to the actual aid given by the RFC is rather meager. From various sources, however, the following data have been gathered: 55 non-member banks applied for the right to issue \$1,201,500 in capital notes. Of the applications, 53 totalling \$1,181,500 were approved, one of \$7,500 was declined, and one of \$12,500 is pending. The applications approved included \$118,500 going to reorganized banks and the balance to banks open and unrestricted after the banking holiday.

<sup>12</sup> Ten state banks failed to apply for membership. On Jan. 2, 1934, 126 state banks were under the FDIC.

Twenty-two member banks offered to the RFC capital obligations totalling \$2,975,000, of which ten, amounting to \$1,005,000, were approved, five amounting to \$760,000, were conditionally approved, and seven, totalling \$1,210,000, are pending.<sup>13</sup>

In addition to the capital note issues it has been reliably estimated that the RFC has loaned from 7 to 9 million dollars to from 60 to 75 banks in Washington. The largest single loan, \$3,750,000, went to the Old National Bank of Spokane as a part of its reorganization plan. Consequently something like 4 million dollars was distributed among the remaining banks.

For that portion of the state of Washington which is under the jurisdiction of the Portland office of the Federal Reserve Bank of San Francisco, more definite information as to RFC loans to banks is available. Seven open and unrestricted non-members applied for nine loans totalling \$187,000, all of which applications were granted, but at the reduced total figure of \$139,550. In addition, one closed non-member bank applied for two loans totalling \$97,000 and was granted a total of \$94,000. Two unrestricted member banks in the Portland area applied for five loans totalling \$87,503, all of which were granted, but only in the amount of \$54,650. One closed member bank applied for \$125,000 and received \$83,500.

Only two of the loans in the Portland area, both to one unrestricted non-member bank, were made during 1933. The sum involved was \$21,450. The others were made during 1932, and so did not figure directly in recent bank reorganization.

Under the Deposit Liquidation Board of the RFC, only one loan to a state bank in Washington had been completed by December 30, 1933. Other applications

<sup>13</sup> Jan. 2, 1934. From the records of the Supervisor of Banking. The speedier action upon non-member bank applications was occasioned by the necessity of qualifying the banks for the FDIC.

had been submitted and the loans recommended but none of the funds had yet reached the depositors. Of the state banks in liquidation in Washington only eleven were closed during 1933. The special effort being made by the Deposit Liquidation Board was limited at the outset to banks that had closed during the current year. In late December authority was granted for making loans to banks previously placed under liquidation. Applications had been received and the appraisal of assets made for some of these institutions.

Another federal agency aiding Washington banks is the Home Owners' Loan Corporation, which is empowered to exchange its bonds for eligible mortgages, that is, those whose makers are in distress and for which the bonds of the HOLC are acceptable to the mortgage holder. In order to ascertain the potential volume of refinancing of this character the State Banking Department made a survey of the eligible mortgages held by state banks. The mortgages were as follows:

Status of Bank	Number	Amount
Open unrestricted . . . . .	1,598	\$2,747,891,000
Under stabilization . . . . .	135	11,675
Under liquidation . . . . .	3,684	6,255,641

The state agency of the HOLC has been swamped with applications, but only a relatively small proportion of the loans had been granted at the time of writing.

*Savings banks.* An interesting feature of the refinancing progress of the savings banks is the method by which the co-operation of second mortgage holders has been secured. In many cases the sale value of the mortgaged property is such that the second mortgage holder would obtain nothing in the event of foreclosure. At the same time the first mortgage held by the savings bank is fairly well secured. Under these circumstances the second mortgage holder may agree to pay the savings bank a sum of sufficient amount to cover part or all of the market



discount upon bonds taken by the bank. This is accomplished by an assignment of those bonds of the HOLC which the second mortgage holder is to receive. If, for instance, the first mortgage is for \$4,000 and the second mortgage is for \$1,000, and the HOLC grants a new loan sufficient to cover the total indebtedness, the second mortgage holder will be required to assign to the bank an agreed number of bonds to cover the market discount, or a part of it.

A member of the Wholesale Division of the HOLC stationed in Washington is authorized to handle all mortgages in these institutions in liquidation, whether the makers are in distress or not. All mortgages of closed banks may therefore be refinanced. The Supervisor of Banking estimates that 4 million dollars of home mortgages will be refinanced, of which about 3.5 million are owned by the Spokane Savings Bank.

It will be the policy of the Banking Department to accept bonds for all mortgages where the par value of the bonds offered equals the amount due on the mortgage. Where the indebtedness is so great that the Corporation will not offer enough bonds in exchange to cover the debt the Banking Department reserves the right to treat each case on its individual merits in the way which appears most likely to yield the greatest net return. National banks and savings and loan associations are included in the new plan. Solvent banks will continue to work through the regular HOLC channels. Of the state banks, the Washington Mutual Savings Bank of Seattle is by far the most important.

*Aid from the Farm Credit Administration.* The situation with respect to refinancing loans through the FCA is quite different. There are two factors which have proved irksome to the Banking Department in its effort to refinance farm mortgages:

(1) The delay in getting action, especially at the outset.

(2) The fact that refinancing has been carried through only when all of the farmers' debts could be composed within the loan limitations (or 75 per cent where a combined commissioner's and farm loan is used).

The Supervisor of Banking objects very strenuously to allowing the unsecured creditors to participate in the settlement. The FCA, on the other hand, is unwilling to refinance the farmer unless he can be put in such financial condition that there is a chance for him to work out of debt. Hence it insists upon a composition of all debts. As a result of the policy adopted, liquidators of closed banks are often asked to accept a substantial cut in the face of the mortgage. Two cases may be cited where the settlements offered on mortgages, each of which was for \$6,000, were \$4,500 and \$5,000 respectively. The offer was rejected in both cases.

The FCA offers cash, not bonds, but the government guaranty of its bonds may liberalize the general lending policy of the Land Banks. The Supervisor expects currency inflation to improve the value of real estate and thereby make real estate loans more readily collectible. He will proceed somewhat slowly, therefore, on a program that will entail refinancing of mortgages at a substantial discount.

The Land Bank has not made available statistics relative to its part in helping the banks liquidate their loans. Mr. Henry Matthews, secretary and vice-president, estimated that between four and five hundred thousand dollars cash has been put into all banks in the Inland Empire. Mr. E. M. Ehrhardt, president, estimated that one quarter of a million dollars in cash had been turned into banks in one county, primarily in the First National Bank of Walla Walla, by the Land Bank. This institution was one of those reorganized without waivers being taken. These are the only figures available.

The Regional Agricultural Credit Corporation, in addition, estimated that 60 per cent of its loans eventually

found their way into banks. These banks, however, were not all in distress.

*Liquidation of state banks in Washington.* Prior to 1915 receivers for state banks were appointed by the court and were responsible only to the court. In 1915 a new law was passed making the Supervisor of Banking responsible for liquidations. The procedure is for the Supervisor to appoint a deputy in charge of one or more liquidations. These liquidators are men who have had banking experience, and ordinarily they are brought in from outside of the community.

The large number of failures in recent years has made it necessary to set up a Liquidating Division with branches in Seattle and Spokane, which look after banks in the western and eastern parts of the state respectively. Each liquidator ordinarily has more than one bank under his jurisdiction. During the early period in any liquidation there is a great deal of work to be done. Claims are proved and offsets worked out during the first 90 days; preferred claims must also be filed within 90 days. The principal preferred claims arise out of deposits which have been received after insolvency. Secured claims consist for the most part of public deposits and bills payable.

When these claims have all been filed and adjusted, the bank may, if its cash funds permit, pay its first dividend, but in no case may this occur during the 90-day period allowed for filing claims and making adjustments. Thereafter dividends are paid as the cash becomes available until the point is reached where it appears to be more economical to sell the remaining assets to a salvage organization. The time required is ordinarily from three to five years. The amount realized from the final sale of the remaining assets is normally from 5 to 10 per cent of the original claims.

The legal services are ordinarily arranged for on a contractual basis and are modest in amount. The liquidator is paid a fixed salary and gets no commission above

this amount. Every effort is made to keep the expenses of the liquidation down to a minimum and to get the largest possible amount for the depositor. A tabulation made last August of the banks then in the Liquidating Division showed that the banks which had an excess of earnings over expenses had yielded a net total of \$588,267.35. On the other hand, banks whose expenses exceeded earnings, while representing practically the same number of institutions, had a net total of only \$72,523.47.

This very favorable showing may be explained in two ways: A large proportion of the liquidations may have been running a comparatively short time and during the early period extremely profitable earning assets may have been held. Moreover, a few large institutions, notably the Spokane Savings Bank and the American Exchange Bank of Seattle, accounted for more than half of the \$588,000. As the liquidation proceeds the cost cannot be reduced in proportion to the income received.

This is no fully satisfactory way of arriving at the costs of liquidation. Annual reports are published, but when a bank is finally wound up many of the banks have no final report covering expenses incurred after the end of the preceding calendar year.

According to the banking officials there has been no recovery by stockholders except in one or two cases. In one case depositors received about 98 per cent of their claims and the remaining assets were then sold to the stockholders for a sufficient amount to pay the remaining claim of depositors. It may be assumed in this case that the stockholders were able to salvage something for themselves.

The collection of liability assessments has varied greatly, and it is a matter of common knowledge that it has fallen off decidedly in recent years. The Supervisor hazards a guess that the total collections from stockhold-

ers of banks which failed during the year 1932 will not exceed 25 per cent of the total assessed.

With the foregoing limitations in mind, data have been compiled concerning banks which have suspended since 1920, whose liquidation had been completed by January 2, 1934. The following distribution gives the percentage of creditors' claims paid. Seven banks paid depositors in full; three also paid interest. The average paid depositors was about 72 per cent, which is a high ratio indeed.<sup>14</sup>

Percentage of Claims Paid	Number of Banks
0- 20 .....	5
21- 40 .....	7
41- 60 .....	8
61- 80 .....	6
81-100 .....	10
Total .....	<hr/> 36

Double liability assessments for 33 banks amounted to \$3,152,000, of which \$1,549,164, or 49.1 per cent, was collected.<sup>15</sup> In no case were all assessments collected, the highest ratio being 94.3 per cent, while in two cases it was less than 10 per cent. Liquidation expense for these banks aggregated \$1,360,000, about 3.7 per cent of the book value of all assets administered. Expenses were approximately 9.4 per cent of claims paid. In one case expenses amounted to more than claims paid.

<sup>14</sup> The Federal Reserve Committee on Branch, Group, and Chain Banking states that in the 32 state banks suspending in Washington during 1921-30 which were completely liquidated by the end of that period, dividends amounting to 72.9 per cent of claims totalling \$17,727,000 were paid. Including offsets of \$5,607,000, the ratio was 79.4 per cent. (*Bank Suspensions in the United States*, p. 197.)

<sup>15</sup> The figure given for the smaller number of banks studied by the Committee is 49.8 per cent of assessments totalling \$2,762,000.

PLAN FOR REOPENING THE X STATE BANK  
OF WASHINGTON

The following plan for reopening of the X State Bank of Washington under the provisions of Chapter 49 of the Session Laws of 1933, is hereby proposed by the Supervisor of Banking of the State of Washington.

1. The stockholders of the bank will contribute in cash or other assets acceptable to the Supervisor of Banking, a sum equal to 35 per cent of the par value of the capital stock of the bank.

2. Depositors and other creditors will make a temporary ratable reduction of their respective net unsecured deposits equal to 40 per cent of the total amount thereof, in accordance with the terms of a waiver, a copy of which is attached hereto and marked "Exhibit A." The balance of their deposits shall become immediately available upon the reorganization becoming operative.

3. Funds obtained from contributions by stockholders and from depositors' waivers shall be used in charging off bad and doubtful assets to the extent that the bank's reserves shall be adequate and its capital and surplus shall remain unimpaired.

4. The bank will issue to depositors a certificate evidencing the amount waived by each depositor under the terms of the waiver, in accordance with a form, a copy of which is attached hereto and marked "Exhibit B."

5. No dividends will be paid upon the stock of the bank for the benefit of any stockholders nor shall any of the bank's assets be distributed among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions. The net earnings of the bank shall be paid into the building up of a surplus thereof until the same shall equal 25 per cent of the capitalization of the bank, and after the payment of such portion of the net earnings into such surplus fund, such further portion of the net earnings as the Supervisor of Banking shall deem proper, shall be for disbursement to certificate holders representing waived deposits in the same manner as the proceeds of liquidation of other assets held for the benefit of such certificate holders. No distribution of earnings may be made which will reduce and leave the surplus of the bank below 25 per cent of the capital stock.

6. Before any new certificates of stock shall be issued on the books of the bank, said certificates shall contain the following provision: "By reason of the fact that a waiver of unsecured deposits has been taken from depositors in this bank, the provisions of Section 7 of Chapter 49 of the Session Laws of 1933 (Washington Bank Stabilization Act) apply, as follows: 'A bank for which such plan has been put into effect shall not declare or pay a dividend or distribute any of its assets among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions.' Therefore, no dividends will be available to the holder of this stock until the provisions of said Section 7 have been complied with." It is further agreed that every effort will be made to recall and reissue certificates of shares now outstanding.

7. In computing the amount of unsecured deposits interest will be computed upon all interest-bearing liabilities of the bank to the date this plan becomes effective. Legal offsets will be allowed against all deposits prior to and simultaneous with the plan becoming effective.

DATED at Olympia, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 1933.

\_\_\_\_\_  
Supervisor of Banking of  
the State of Washington.

Exhibit "A"

\_\_\_\_\_  
DEPOSIT WAIVER  
\_\_\_\_\_

In accordance with a plan for reorganization of the X State Bank of Washington which has been proposed by the Supervisor of Banking of the State of Washington, and in consideration of like waivers signed by other creditors representing 75 per cent of unsecured creditors, as provided by the Washington Bank Stabilization Act, I hereby authorize and direct the X State Bank of Washington to deduct from any deposit I may have in said bank an amount equal to 40 per cent thereof.

Section 7, Chapter 49 of the 1933 Session Laws, being the Washington Bank Stabilization Act, provides:

“A bank for which such a plan has been put into effect shall not declare or pay a dividend or distribute any of its assets among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions.”

Amount of Deposit \$ \_\_\_\_\_ {  
Checking Account \$ \_\_\_\_\_  
Savings Account \$ \_\_\_\_\_  
Time Certificate  
of Deposit \$ \_\_\_\_\_

DATED at \_\_\_\_\_, Washington, this \_\_\_\_\_  
day of \_\_\_\_\_ 1933.

Exhibit "B"

\_\_\_\_\_ CERTIFICATE \_\_\_\_\_

THIS IS TO CERTIFY That \_\_\_\_\_  
having waived forty (40%) per cent of his deposit in X Stat.  
Bank of \_\_\_\_\_, Washington, which waived portion  
of his deposit amounts to \$ \_\_\_\_\_, is entitled to receive a  
ratable return with all other depositors and creditors whose de-  
mands were reduced a like amount, in accordance with Section  
7, Chapter 49, of the Session Laws of 1933, being the Wash-  
ington Bank Stabilization Act.

DATED at \_\_\_\_\_, Washington, this \_\_\_\_\_  
day of \_\_\_\_\_, 1933.

X STATE BANK OF \_\_\_\_\_

By \_\_\_\_\_



## INDEX

## INDEX

- Asset substitution, 70
- Bank Conservation Act, 49-50,  
126-27
- Bank credit, expansion of, 224-27
- Bank failures,  
geographic distribution, 1863-  
96, 246  
number and size, 245
- Bank holidays, 9-12, 14  
attempts to prevent, 151-56  
national, 14-16
- Bank supervisors, state, control  
over liquidation, 31-39
- Bank suspensions, 1897-1933, 247;  
1921-32, 250
- Capital investments in banks,  
RFC procedure, 188-89  
state legislation concerning, 189-  
91
- Capital reorganization,  
active banks, 199-202  
closed banks, 198-99
- Chapman, John M., 62
- Chase National Bank, 240-41
- Closed banks,  
administration of national, 20-  
29; state, Ch. III  
payoff plan for depositors, 181-  
87  
reorganization of national, 117;  
state, 118-23, 134-40  
RFC loans to, Ch. XII  
statistics of reorganization, 114-  
16, 140-41  
Washington, state of, reorganiz-  
ation, 259-80
- Conservators, selection of, 53-56
- Conservatorships, 48-56
- Continental-Illinois National Bank,  
238, 241
- Control of banks by RFC, 160-  
61, 198-207, 234-42
- Cummings, Walter J., 238, 240
- Dawes, Charles G., 158
- Deposit Liquidation Division of  
RFC, 166, 168-71
- Depositors' losses, Ch. VII
- Detroit Bankers Company, 99
- Detroit,  
failure of banks, 152-55  
RFC loans to closed banks, 178-  
80
- Division of Insolvent Banks, 20,  
21, 78
- Dolbeare, Harwood B., 109
- Double liability, 94-101, 105-09
- Farm Credit Administration,  
operations in the state of Wash-  
ington, 273-75  
relations with closed banks, 209-  
12
- Federal aid to distressed banks, 6-  
9
- Federal Deposit Insurance Corpor-  
ation, 20, 41, 56-58, 76, 125,  
167-68, 218-19
- Federal Farm Mortgage Corpora-  
tion, 211, 233
- Federal Land Banks, 210-11
- Federal Liquidation Corporation,  
164
- Federal Reserve Banks, 46
- First National Bank of Detroit,  
99-101
- Florida banks, expenses of liquida-  
tion, 83
- Florida, Emergency Bank Act of  
1931, 10
- Ford, Henry, 154-55

- Guaranty fund commissions, administration of closed banks by, 39-40  
 Guaranty funds, 87, 88  
 Guardian Detroit Union Group, Inc., 99  
 Holding companies, liability of, 99  
 Home Owners' Loan Corporation, 212-18, 233, 272  
 Illinois, ruling on local bank holidays, 11  
 Indiana Study Commission for Financial Institutions, 65, 83  
 Interest rates on RFC loans, 172 preferred stock, 192  
 Jones, Jesse, 159, 181, 200, 224, 227, 230, 239  
 Kane, Thomas P., 62  
 Lebanon National Bank of New York, 74  
 Licensed banks, number and amount of deposits, 255-58  
 Licensing, 45-48  
 Liquidation corporations for state banks, 41-44.  
 Loans to closed banks, RFC, Ch. XII  
 Loans to open banks, RFC, Ch. XI  
 Louisiana bank holiday of Feb. 4, 1933, 14.  
 Manufacturers Trust Plan, 74-77  
 Maryland, reorganization of closed banks, 118  
 Massachusetts Special Commission on bank liquidation, 73, 82, 97  
 McLeod bills, 182-84, 233  
 Michigan, reorganization of closed banks, 118-20, 137-40  
 Minnesota, ruling on local bank holidays, 11  
 Moratoria, 9-12  
 National bank suspensions, 4-6  
 National Credit Corporation, 7  
 Nevada, banking holidays, 12  
 New York, reorganization of state banks, 120-22, 135-37, 165  
 Non-Member Preferred Stock Division, RFC, 193-94  
 North Carolina, 110  
 Offsets, 67-69  
 Payments to depositors compared with claims, 248  
 Pay off plan for depositors in closed banks, 181-87  
 Pennsylvania, RFC loans to closed banks, 177-78  
 Preferences among claimants against insolvent banks, 65-66  
 Preferred obligations, effect on bank earnings, 202-07 provisions for purchase by RFC, 191-94  
 Preferred stock, 191-98  
 Preston, Howard H., 259  
 Public deposits in closed banks, 173-74  
 Purchasing power, restoration of, 227-29  
 Receivers, national bank, appointment, 17-20 duties, 22-29  
 Receivers, selection of, 61-65  
 Receivership, expenses of, Ch. VI  
 Reconstruction Finance Corporation, 7-9, 48, 108, 125, 160-61, 198-207, 268-72, 229-42  
 Reconstruction Finance Corporation loans, closed bank, Ch. XII open bank, Ch. XI  
 Reichert, R. E., 119  
 Reorganization of closed banks, national, 116-17 state, 117-23 statistics of, 114-16, 140-41 Washington, state of, 265-68  
 Reorganization plans, state banks, 134-40  
 Robey, Ralph West, 62

*INDEX*

285

- Shareholders' losses, 101-05  
South Dakota, 40, 110  
Spokane Plan, 70-74, 117, 132-  
34  
State bank suspensions, 4-6  
Straight Rehabilitation Plan, 126-  
29  
Suspensions, number of, 1864-  
1933, Ch. I  
Talley, Lynn P., 238  
Trust departments of closed banks,  
28-29  
Trust deposits in banks admin-  
istered by conservators, 51  
Waiver and Sale Plan, 129-34  
Washington, state of, bank failures  
and reorganizations, 259-80  
Wholesale Department of the  
HOLC, 216-17  
Willis, H. Parker, 62  
Wisconsin, legislation on loans to  
closed banks, 166

PUBLICATIONS OF THE BROOKINGS  
INSTITUTION\*

INSTITUTE OF ECONOMICS SERIES

- (1.) GERMANY'S CAPACITY TO PAY.  
By Harold G. Moulton and Constantine E. McGuire.  
384 pp. 1923. \$2.50.
- (2.) RUSSIAN DEBTS AND RUSSIAN RECONSTRUCTION.  
By Leo Pasvolsky and Harold G. Moulton. 247 pp.  
1924. \$2.50.
- (3.) MAKING THE TARIFF IN THE UNITED STATES.  
By Thomas Walker Page. 281 pp. 1924. \$3.
- (4.) AMERICAN AGRICULTURE AND THE EUROPEAN MARKET.  
By Edwin G. Nourse. 333 pp. 1924. \$2.50.
- (5.) SUGAR IN RELATION TO THE TARIFF.  
By Philip G. Wright. 312 pp. 1924. \$2.50.
- (6.) MINERS' WAGES AND THE COST OF COAL.  
By Isador Lubin. Out of print.
- (7.) THE REPARATION PLAN.  
By Harold G. Moulton. 325 pp. 1924. \$2.50.
- (8.) THE FRENCH DEBT PROBLEM.  
By Harold G. Moulton and Cleona Lewis. 459 pp.  
1925. \$2.
- (9.) THE RUHR-LORRAINE INDUSTRIAL PROBLEM.  
By Guy Greer. 328 pp. 1925. \$2.50.
- (10.) THE CASE OF BITUMINOUS COAL.  
By Walton H. Hamilton and Helen R. Wright. 310  
pp. 1925. \$2.50.
- (11.) INTEREST RATES AND STOCK SPECULATION.  
By Richard N. Owens and Charles O. Hardy. 221  
pp. rev. ed. 1930. \$2.50.
- (12.) THE FEDERAL INTERMEDIATE CREDIT SYSTEM.  
By Claude L. Benner. Out of print.
- (13.) THE TARIFF ON WOOL.  
By Mark A. Smith. 350 pp. 1926. \$2.50.
- (14.) THE CATTLE INDUSTRY AND THE TARIFF.  
By Lynn Ramsay Edminster. 331 pp. 1926. \$2.50.

\*The parentheses indicate that the volume itself does not carry the number since it was given subsequent to publication.

### LIST OF PUBLICATIONS

- (15.) THE COAL MINERS' STRUGGLE FOR INDUSTRIAL STATUS.  
By Arthur E. Suffern. 462 pp. 1926. \$2.50.
- (16.) TAX-EXEMPT SECURITIES AND THE SURTAX.  
By Charles O. Hardy. 216 pp. 1926. \$2.
- (17.) WORLD WAR DEBT SETTLEMENTS.  
By Harold G. Moulton and Leo Pasvolsky. 448 pp. 1926. \$2.
- (18.) FINANCING THE LIVESTOCK INDUSTRY.  
By Forest M. Larmer. 327 pp. 1926. \$2.50.
- (19.) ITALY'S INTERNATIONAL ECONOMIC POSITION.  
By Constantine E. McGuire. 588 pp. 1926. \$3.
- (20.) WORKERS' HEALTH AND SAFETY: A STATISTICAL PROGRAM.  
By Robert Morse Woodbury. 207 pp. 1927. \$2.50.
- (21.) THE INTERNATIONAL ACCOUNTS.  
By Cleona Lewis. 170 pp. 1927. \$2.
- (22.) INDUSTRIAL PROSPERITY AND THE FARMER.  
By Russell C. Engberg. 286 pp. 1927. \$2.50.
- (23.) THE LEGAL STATUS OF AGRICULTURAL CO-OPERATION.  
By Edwin G. Nourse. 555 pp. 1927. \$3.
- (24.) AMERICAN LOANS TO GERMANY.  
By Robert R. Kuczynski. 378 pp. 1927. \$3.
- (25.) THE BRITISH COAL DILEMMA.  
By Isador Lubin and Helen Everett. 370 pp. 1927. \$2.50.
- (26.) THE TARIFF ON ANIMAL AND VEGETABLE OILS.  
By Philip G. Wright. 347 pp. 1928. \$2.50.
- (27.) A WAY OF ORDER FOR BITUMINOUS COAL.  
By Walton H. Hamilton and Helen R. Wright. 365 pp. 1928. \$2.50.
- (28.) ECONOMIC NATIONALISM OF THE DANUBIAN STATES.  
By Leo Pasvolsky. 609 pp. 1928. \$3.
- (29.) THE BALANCE OF BIRTHS AND DEATHS. Vol. I, Western and Northern Europe.  
By Robert R. Kuczynski. Out of print.
- (30.) LABOR AND INTERNATIONALISM.  
By Lewis L. Lorwin. 682 pp. 1929. \$3.

### LIST OF PUBLICATIONS

- (31.) THE MEXICAN AGRARIAN REVOLUTION.  
By Frank Tannenbaum. 543 pp. 1929. \$3.
- (32.) THE TARIFF ON IRON AND STEEL.  
By Abraham Berglund and Philip G. Wright. 240 pp. 1929. \$3.
- (33.) THE ST. LAWRENCE NAVIGATION AND POWER PROJECT.  
By Harold G. Moulton, Charles S. Morgan, and Adah L. Lee. 675 pp., 1929. \$4.
- (34.) RAILROAD PURCHASING AND THE BUSINESS CYCLE.  
By John E. Partington. 309 pp. 1929. \$3.
- (35.) HAND-TO-MOUTH BUYING: A STUDY IN THE ORGANIZATION, PLANNING, AND STABILIZATION OF TRADE.  
By Leverett S. Lyon. 487 pp. 1929. \$4.
- (36.) UNEMPLOYMENT INSURANCE IN GERMANY.  
By Mollie Ray Carroll. Out of print.
- (37.) INTERNATIONAL CONTROL OF RAW MATERIALS.  
By Benjamin Bruce Wallace and Lynn Ramsay Edminster. 479 pp. 1930. \$3.50.
- (38.) BIRTH REGISTRATION AND BIRTH STATISTICS IN CANADA.  
By Robert R. Kuczynski. 219 pp. 1930. \$3.
- (39.) BULGARIA'S ECONOMIC POSITION.  
By Leo Pasvolsky. 409 pp. 1930. \$3.
40. THE CO-OPERATIVE MARKETING OF LIVESTOCK.  
By Edwin G. Nourse and Joseph G. Knapp. 486 pp. 1931. \$3.50.
41. BANKERS' PROFITS FROM GERMAN LOANS.  
By Robert R. Kuczynski. 228 pp. 1932. \$1.75.
42. THE CUBAN SITUATION AND OUR TREATY RELATIONS.  
By Philip G. Wright. Out of print.
43. THE BALANCE OF BIRTHS AND DEATHS. Vol. II, Eastern and Southern Europe.  
By Robert R. Kuczynski. 170 pp. 1931. \$2.
44. JAPAN: AN ECONOMIC AND FINANCIAL APPRAISAL.  
By Harold G. Moulton with the collaboration of Junichi Ko. 645 pp. 1931. \$4.

### LIST OF PUBLICATIONS

45. CREDIT POLICIES OF THE FEDERAL RESERVE SYSTEM.  
By Charles O. Hardy. 374 pp. 1932. \$2.50.
46. WAR DEBTS AND WORLD PROSPERITY.  
By Harold G. Moulton and Leo Pasvolsky. 498 pp.  
1932. \$3.
47. ADVERTISING ALLOWANCES: A PHASE OF THE PRICE-  
MAKING PROCESS.  
By Leverett S. Lyon. 125 pp. 1932. \$1.
48. TEN YEARS OF FEDERAL INTERMEDIATE CREDITS.  
By Frieda Baird and Claude L. Benner. 416 pp. 1933.  
\$2.75.
49. SILVER: AN ANALYSIS OF FACTORS AFFECTING ITS  
PRICE.  
By Y. S. Leong. 172 pp. rev. ed. 1934. \$2.
50. THE AMERICAN FEDERATION OF LABOR: HISTORY,  
POLICIES, AND PROSPECTS.  
By Lewis L. Lorwin. 573 pp. 1933. \$2.75.
51. THE BRITISH ATTACK ON UNEMPLOYMENT.  
By Isador Lubin and A. C. C. Hill, Jr. (In press.)
52. CURRENT MONETARY ISSUES.  
By Leo Pasvolsky. 192 pp. 1933. \$1.50.
53. THE ECONOMICS OF FREE DEALS: WITH SUGGES-  
TIONS FOR CODE-MAKING UNDER THE N.R.A.  
By Leverett S. Lyon. 228 pp. 1933. \$1.50.
54. THE ABC OF THE NRA.  
By Charles L. Dearing, Paul T. Homan, Lewis L.  
Lorwin, and Leverett S. Lyon. 185 pp. 1934.  
\$1.50.
55. AMERICA'S CAPACITY TO PRODUCE.  
By Edwin G. Nourse and Associates. 618 pp. 1934.  
\$3.50.
56. AMERICA'S CAPACITY TO CONSUME.  
By Maurice Levin, Harold G. Moulton, and Clark  
Warburton. 272 pp. 1934. \$3.
57. THE HOUSING PROGRAM OF THE CITY OF VIENNA.  
By Charles O. Hardy and Robert R. Kuczynski. 143  
pp. 1934. \$2.
58. CLOSED AND DISTRESSED BANKS. By Cyril B. Upham  
and Edwin Lamke. 285 pp. 1934. \$2.50.



## LIST OF PUBLICATIONS

### INSTITUTE FOR GOVERNMENT RESEARCH SERIES

#### *Studies in Administration*

- (1.) THE SYSTEM OF FINANCIAL ADMINISTRATION OF GREAT BRITAIN.  
By W. F. Willoughby, W. W. Willoughby, and S. M. Lindsay. 362 pp. 1917. \$3.
- (2.) THE BUDGET: A TRANSLATION.  
By René Stourm. 619 pp. 1917. \$4.
- (3.) THE PROBLEM OF A NATIONAL BUDGET.  
By W. F. Willoughby. Out of print.
- (4.) THE MOVEMENT FOR BUDGETARY REFORM IN THE STATES.  
By W. F. Willoughby. 254 pp. 1918. \$3.
- (5.) THE CANADIAN BUDGETARY SYSTEM.  
By H. C. Villard and W. W. Willoughby. 379 pp. 1918. \$3.
- (6.) ORGANIZED EFFORTS FOR THE IMPROVEMENT OF METHODS OF ADMINISTRATION IN THE UNITED STATES.  
By Gustavus A. Weber. 391 pp. 1919. \$3.
- (7.) TEACHERS' PENSION SYSTEMS IN THE UNITED STATES.  
By Paul Studensky. 460 pp. 1920. \$3.
- (8.) THE FEDERAL SERVICE: A STUDY OF THE SYSTEM OF PERSONNEL ADMINISTRATION OF THE UNITED STATES GOVERNMENT.  
By Lewis Mayers. 607 pp. 1922. \$5.
- (9.) THE REORGANIZATION OF THE ADMINISTRATIVE BRANCH OF THE NATIONAL GOVERNMENT.  
By W. F. Willoughby. Out of print.
- (10.) THE DEVELOPMENT OF NATIONAL ADMINISTRATIVE ORGANIZATION IN THE UNITED STATES.  
By Lloyd M. Short. 514 pp. 1923. \$5.
- (11.) THE STATISTICAL WORK OF THE NATIONAL GOVERNMENT.  
By Laurence F. Schmeckebier. 574 pp. 1925. \$5.
- (12.) MANUAL OF ACCOUNTING AND REPORTING FOR THE OPERATING SERVICES OF THE NATIONAL GOVERNMENT.  
By Henry P. Seidemann. 399 pp. 1926. \$5.

### LIST OF PUBLICATIONS

- (13.) THE NATIONAL GOVERNMENT AND PUBLIC HEALTH.  
By James A. Tobey. 423 pp. 1926. \$3.
- (14.) THE NATIONAL BUDGET SYSTEM, WITH SUGGESTIONS  
FOR ITS IMPROVEMENT.  
By W. F. Willoughby. 343 pp. 1927. \$3.
- (15.) THE DEPARTMENT OF JUSTICE OF THE UNITED  
STATES.  
By Albert Langeluttig. 318 pp. 1927. \$3.
- (16.) THE LEGAL STATUS AND FUNCTIONS OF THE GEN-  
ERAL ACCOUNTING OFFICE.  
By W. F. Willoughby. 720 pp. 1927. \$3.
- (17.) THE PROBLEM OF INDIAN ADMINISTRATION.  
By Lewis Meriam and Associates. 872 pp. 1928. \$5.
- (18.) THE DISTRICT OF COLUMBIA: ITS GOVERNMENT AND  
ADMINISTRATION.  
By Laurence F. Schmeckebier. 943 pp. 1928. \$5.
- (19.) THE DEVELOPMENT OF GOVERNMENTAL FOREST  
CONTROL IN THE UNITED STATES.  
By Jenks Cameron. 471 pp. 1928. \$3.
- (20.) MANUAL OF ACCOUNTING, REPORTING, AND BUSINESS  
PROCEDURE FOR THE TERRITORIAL GOVERN-  
MENT OF HAWAII.  
By Henry P. Seidemann. 570 pp. 1928. \$5.
- (21.) THE GOVERNMENT AND ADMINISTRATION OF GER-  
MANY.  
By Frederick F. Blachly and Miriam E. Oatman.  
770 pp. 1928. \$5.
- (22.) GROUP REPRESENTATION BEFORE CONGRESS.  
By E. Pendleton Herring. Out of print.
- (23.) REGISTRATION OF VOTERS IN THE UNITED STATES.  
By Joseph P. Harris. 390 pp. 1929. \$3.
- (24.) THE GOVERNMENT AND ADMINISTRATION OF THE  
DISTRICT OF COLUMBIA: SUGGESTIONS FOR  
CHANGE.  
By Laurence F. Schmeckebier and W. F. Willoughby.  
187 pp. 1929. \$2.
25. FINANCIAL CONDITION AND OPERATION OF THE NA-  
TIONAL GOVERNMENT, 1921-1930.  
By W. F. Willoughby. 234 pp. 1931. \$3.
26. STATE CENTRALIZATION IN NORTHERN CAROLINA.  
By Paul V. Betters (editor). 261 pp. 1932. \$2.

## LIST OF PUBLICATIONS

27. ELECTION ADMINISTRATION IN THE UNITED STATES.  
By Joseph Harris. 453 pp. 1934. \$3.
28. NEW FEDERAL ORGANIZATIONS.  
By Laurence F. Schmeckebier. 199 pp. 1934. \$1.50.
29. ADMINISTRATIVE LEGISLATION AND ADJUDICATION.  
By Frederick F. Blachly and Miriam E. Oatman. 296 pp. 1934. \$3.

### *Principles of Administration*

- (1.) PRINCIPLES GOVERNING THE RETIREMENT OF PUBLIC EMPLOYEES.  
By Lewis Meriam. Out of print.
- (2.) PRINCIPLES OF GOVERNMENT PURCHASING.  
By Arthur G. Thomas. 275 pp. 1919. \$3.
- (3.) PRINCIPLES OF GOVERNMENT ACCOUNTING AND REPORTING.  
By Francis Oakey. Out of print.
- (4.) PRINCIPLES OF PUBLIC PERSONNEL ADMINISTRATION.  
By Arthur W. Proctor. 244 pp. 1921. \$3.
- (5.) PRINCIPLES OF PUBLIC ADMINISTRATION.  
By W. F. Willoughby. 720 pp. 1927. \$5.
- (6.) PRINCIPLES OF JUDICIAL ADMINISTRATION.  
By W. F. Willoughby. 662 pp. 1929. \$5.
7. PRINCIPLES OF LEGISLATIVE ORGANIZATION AND ADMINISTRATION.  
By W. F. Willoughby. 634 pp. 1934. \$5.

### *Service Monographs of the United States Government*

1. Geological Survey. Out of print.
2. Reclamation Service. Out of print.
3. Bureau of Mines. 162 pp. 1922. \$1.
4. Alaskan Engineering Commission. 124 pp. 1922. \$1.
5. Tariff Commission. 71 pp. 1922. \$1.
6. Federal Board for Vocational Education. 74 pp. 1922. \$1.
7. Federal Trade Commission. 80 pp. 1922. \$1.
8. Steamboat-Inspection Service. 130 pp. 1922. \$1.
9. Weather Bureau. 87 pp. 1922. \$1.
10. Public Health Service. 298 pp. 1923. \$2.
11. National Park Service. 172 pp. 1922. \$1.
12. Employees' Compensation Commission. 86 pp. 1922. \$1.
13. General Land Office. 224 pp. 1923. \$1.50.

## LIST OF PUBLICATIONS

14. Bureau of Education. 157 pp. 1923. \$1.
15. Bureau of Navigation. 124 pp. 1923. \$1.
16. Coast and Geodetic Survey. 107 pp. 1923. \$1.
17. Federal Power Commission. Out of print.
18. Interstate Commerce Commission. Out of print.
19. Railroad Labor Board. 83 pp. 1923. \$1.
20. Division of Conciliation. 37 pp. 1923. \$1.
21. Children's Bureau. 83 pp. 1925. \$1.
22. Women's Bureau. 31 pp. 1923. \$1.
23. Office of the Supervising Architect. 138 pp. 1923. \$1.
24. Bureau of Pensions. 111 pp. 1923. \$1.
25. Bureau of Internal Revenue. 270 pp. 1923. \$1.50.
26. Bureau of Public Roads. 123 pp. 1923. \$1.
27. Office of the Chief of Engineers. 166 pp. 1923. \$1.
28. United States Employment Service. 130 pp. 1923. \$1.
29. Bureau of Foreign and Domestic Commerce. 180 pp. 1924. \$1.
30. Bureau of Immigration. 247 pp. 1924. \$1.50.
31. Patent Office. Out of print.
32. Office of Experiment Stations. 178 pp. 1924. \$1.
33. Customs Service. Out of print.
34. Federal Farm Loan Bureau. 160 pp. 1924. \$1.
35. Bureau of Standards. 299 pp. 1925. \$2.
36. Government Printing Office. 143 pp. 1925. \$1.
37. Bureau of the Mint. 90 pp. 1926. \$1.
38. Office of the Comptroller of the Currency. 84 pp. 1926. \$1.
39. Naval Observatory. 101 pp. 1926. \$1.
40. Lighthouse Service. 158 pp. 1926. \$1.
41. Bureau of Animal Industry. 190 pp. 1927. \$1.50.
42. Hydrographic Office. 112 pp. 1926. \$1.
43. Bureau of Naturalization. 108 pp. 1926. \$1.
44. Panama Canal. 413 pp. 1927. \$2.50.
45. Medical Department of the Army. 161 pp. 1927. \$1.50.
46. General Accounting Office. 215 pp. 1927. \$1.50.
47. Bureau of Plant Industry. 121 pp. 1927. \$1.
48. Office of Indian Affairs. 591 pp. 1927. \$3.
49. United States Civil Service Commission. 153 pp. 1928. \$1.50.
50. Food, Drug and Insecticide Administration. 134 pp. 1928. \$1.50.
51. Coast Guard. 265 pp. 1929. \$1.50.

## LIST OF PUBLICATIONS

52. Bureau of Chemistry and Soils. 218 pp. 1928. \$1.50.
53. Bureau of the Census. 224 pp. 1929. \$1.50.
54. Bureau of Biological Survey. 339 pp. 1929. \$2.
55. Bureau of Dairy Industry. 74 pp. 1929. \$1.50.
56. Bureau of Engraving and Printing. 111 pp. 1929. \$1.50.
57. Bureau of Prohibition. 333 pp. 1929. \$2.
58. Forest Service. 268 pp. 1930. \$2.
59. Plant Quarantine and Control Administration. 198 pp. 1930. \$1.50.
60. Bureau of Entomology. 177 pp. 1930. \$1.50.
61. Aeronautics Branch: Department of Commerce. 147 pp. 1930. \$1.50.
62. Bureau of Home Economics. 95 pp. 1930. \$1.50.
63. United States Shipping Board. 338 pp. 1931. \$2.50.
64. The Personnel Classification Board. 160 pp. 1931. \$1.50.
65. The Federal Radio Commission. 159 pp. 1932. \$1.50.
66. The Veterans' Administration. 490 pp. 1934. \$2.50.

### MISCELLANEOUS SERIES

#### PORTO RICO AND ITS PROBLEMS.

By Victor S. Clark and Associates. Out of print.

#### STEPHEN J. FIELD: CRAFTSMAN OF THE LAW.

By Carl Brent Swisher. 473 pp. 1930. \$4.

#### THE SPIRIT OF '76 AND OTHER ESSAYS.

By Carl Becker, J. M. Clark, and William E. Dodd. 135 pp. 1927. \$1.50.

#### ESSAYS ON RESEARCH IN THE SOCIAL SCIENCES.

By W. F. G. Swann and others. 194 pp. 1931. \$2.

#### THE SOCIETY OF NATIONS: ITS ORGANIZATION AND CONSTITUTIONAL DEVELOPMENT.

By Felix Morley. 678 pp. 1932. \$3.50.

#### THE AMERICAN TRANSPORTATION PROBLEM.

By Harold G. Moulton and Associates. 895 pp. 1933. \$3.

#### THE ECONOMICS OF AIR MAIL TRANSPORTATION.

By Paul T. David. 235 pp. 1934. \$2.

#### TREND ANALYSIS OF STATISTICS: THEORY AND TECHNIQUE.

By Max Sasuly. (In press.)

### PAMPHLETS

#### No. 1. RECENT GROWTH OF THE ELECTRIC LIGHT AND POWER INDUSTRY.

By Charles O. Hardy. 53 pp. 1929. 50 cents.

## LIST OF PUBLICATIONS

- No. 2. FIRST MORTGAGES IN URBAN REAL ESTATE FINANCE.  
By John H. Gray and George W. Terborgh. 69 pp. 1929.  
50 cents.
- No. 3. THE ABSORPTION OF THE UNEMPLOYED BY AMERICAN INDUSTRY.  
By Isador Lubin. 36 pp. 1929. 50 cents.
- No. 4. SOME TRENDS IN THE MARKETING OF CANNED FOODS.  
By Leverett S. Lyon. 57 pp. 1929. 50 cents.
- No. 5. THE FECUNDITY OF NATIVE AND FOREIGN-BORN WOMEN IN NEW ENGLAND.  
By Joseph J. Spengler. 63 pp. 1930. 50 cents.
- No. 6. SOURCES OF COAL AND TYPES OF STOKERS AND BURNERS USED BY ELECTRIC PUBLIC UTILITY POWER PLANTS.  
By William H. Young. 83 pp. 1930. 50 cents.
- No. 7. FEDERAL SERVICES TO MUNICIPAL GOVERNMENTS.  
By Paul V. Betters. 100 pp. 1931. 50 cents.
- No. 8. REORGANIZATION OF THE FINANCIAL ADMINISTRATION OF THE DOMINICAN REPUBLIC.  
By Taylor G. Addison. 105 pp. 1931. 50 cents.
- No. 9. ADVISORY ECONOMIC COUNCILS.  
By Lewis L. Lorwin. 84 pp. 1931. 50 cents.
- No. 10. UNEMPLOYMENT INSURANCE IN AUSTRIA.  
By Mollie Ray Carroll. 52 pp. 1932. 50 cents.
- No. 11. PRICE-CONTROL DEVICES IN NRA CODES.  
By George Terborgh. 45 pp. 1934. 50 cents.
- No. 12. CORN AND HOGS UNDER THE AGRICULTURAL ADJUSTMENT ACT: DEVELOPMENTS UP TO MARCH 1934.  
By D. A. FitzGerald. 107 pp. 1934. 50 cents.
- No. 13. DAIRY PRODUCTS UNDER THE AGRICULTURE ADJUSTMENT ACT: DEVELOPMENTS UP TO MARCH 1934.  
By F. F. Lininger. 99 pp. 1934. 50 cents.
- No. 14. WHEAT UNDER THE AGRICULTURAL ADJUSTMENT ACT: DEVELOPMENTS UP TO JUNE 1934.  
By Sherman Johnson. 103 pp. 1934. 50 cents.
- No. 15. COTTON UNDER THE AGRICULTURAL ADJUSTMENT ACT: DEVELOPMENTS UP TO JULY 1934.  
By Henry I. Richards. 133 pp. 1934. 50 cents.

**CHECKED**  
**2003-04**

# THE ABC OF THE NI

By

Charles Dearing, Paul T. Homa

Lewis L. Lorwin

and

Leverett S. Lyon

The activities of the National Recovery Administration have touched every American citizen. The attitude of business men and workers has been centered in Washington as new forms of economic organization have been devised and new relationships have developed between business competitors, between employers and employees, between buyers and sellers, between business interests and the Government.

The Recovery Act was a part of the Roosevelt administration's attack upon the depression. But the significance of the development under it goes far beyond the immediate concern with economic recovery. The economic philosophy of collective action is at work which may greatly modify the structure of American industry and the outlines of American economic life.

The primary purpose of the present volume is to present the background and content of the Recovery Act, and to give a clear and simple picture of the activities of the Recovery Administration. No attempt of the work of the NRA is attempted, but the outlines of the great issues of public policy appear.

Price, \$1.50

Published by

THE BROOKINGS INSTITUTION

Washington, D. C.