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Banking concentration in the United States and congressional proposals to strengthen the bank merger laws

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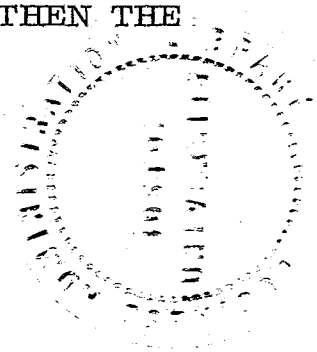
THESIS

BANKING CONCENTRATION IN THE UNITED STATES
AND
CONGRESSIONAL PROPOSALS TO STRENGTHEN THE
BANK MERGER LAWS

BY

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FOREWORD

More and more banks are merging all over the nation, including some of the biggest in the country. This trend has caused alarm among some economists and politicians who fear a centralized control of banking. Are mergers made for the sake of size or economic control by a few large banks. What economic factors are involved in this trend and can legislation by itself change the forces of the economy. Mergers do not always lessen competition and many times strengthen the competitive position of the banks involved. We cannot be dogmatic and say mergers are evil per se because a merger means less competition. We intend to examine the basic factors in the merger picture and their effect on the banking structure in this country. Legislative proposals to restrict mergers will be considered with attention given to the location of such laws in the antitrust group or the banking code. The dual nature of the banking system with its differing growth patterns caused by State laws will be considered.

1. Growth Trends in the Banking Industry

A. Background

A study of the merger movement should begin with a brief consideration of the background against which current changes are taking place. The banking structure has changed before thus current developments should be kept in perspective. Those who earn a living from banks are intimately affected by the basic change currently going on in the structure of the banking system. To the banker himself it may mean a change in the job especially in how much he has to say about bank policy. To the stockholder it may mean a change in yield or value of his holdings. The person most vitally affected, however, may well be the customer, because current changes in the banking structure may influence the quantity, quality, and cost of service he gets from banks. These factors are well worth examining.

Like everything else, banks, if they are to survive must adapt themselves to changing conditions. As our economy has changed, so has the banking structure. There have been some significant changes in our banking structure thus far in this century.

During the first two decades extensive expansion took place. This was a period of economic growth with farming especially prosperous. New banks (mostly small banks chartered by the states) came into existence in the south and midwest. The outlook for profits was good and it was

easy to start a bank. Most of these banks were unit banks (one office). Branches were not uncommon before the Civil War but with the establishment of the national banking system, branches were usually frowned upon. Pressures for branches were present but did not have much effect on the banking structure until the twenties.

In the early nineteen hundreds people were moving to the urban areas, the reverse of today, and business concerns were merging or in other ways building large organizations to produce and distribute goods on a mass basis. The banks were heading in the opposite direction to the various strong forces in the economy. To keep in step, the banking structure was due for a change.

Beginning with the twenties and ending with the bank holiday, banks went through a period of retrenchment. The number of banks was cut approximately in half as a result of three major factors. Few new banks were established, failures were numerous, and mergers increased, all of which caused the decline in the number of banks. Bank earnings were poor and there were too many banks for the volume of business. The chance for profits being small few applications were submitted to organize new banks. The economy generally was good, however as it is today, farming in many areas was not prosperous.

The decline in business activity and hindsight revealed that banking practices in many cases had not been good for some time.

Bank failures picked up speed, starting initially in rural areas, but eventually spreading to the industrial centers. In 1933 the situation got completely out of control and many fundamentally sound banks failed with the weak ones.

How much mergers in the twenties eased or aggravated the problem will probably never be known. Many of the mergers were life-saving operations with strong banks taking over weak ones. Many of the mergers were made to better meet the needs of the economy, to increase lending capacity, and to acquire branches in growing areas. These mergers were mostly in the larger cities and on the whole did not make services of big banks available to small towns. Many mergers were inspired mainly by profitable prospects of a trust or securities business or simply a desire to be bigger. Service to the customer did not decline as the number of branches increased as the number of banks was dropping. Pressures behind branch banking were increasing. The law at this time put national banks at a disadvantage compared with State banks and as steps were taken to liberalize the restrictions, branches of national banks increased, along with branches of State banks. In States where laws remained tight the pressures tended to be overcome by chain and group banking.

In the past twenty years banking has been in its third phase, one of maturity. 1933 and 1934 saw a number of new banks established

to meet the needs of areas left without banks. Immediately after the war new banks were established in response to the expansion of the economy. Generally speaking the number of new banks has held fairly steady in this period. Failures have been negligible although in the latter thirties the Federal Deposit Insurance Corporation assisted in the merger of a fair number of banks into other banks to prevent collapse. When compared with the twenties both failures and mergers have been relatively small.

B. Most Significant Development

The most significant development in this latter period has been the steady growth in the number and importance of branches. This development is important enough to be dealt with in a separate chapter. We can point out that economic developments and legal provisions are two important factors. The centralization movement at work earlier is being reversed, people are moving to the suburbs and industry is decentralizing. Government desires to spread industry and the manufacturing development in previously undeveloped areas of the country are aiding this trend. We must look at present development in the banking structure against this historical background. The current branch and merger movement is different from past movements and banks and regulatory authorities must treat the industry as matured. Consolidations and mergers do not just happen, there are reasons for them. Sudden

change without much thought in legal restrictions are not in the best interest of the economy or the banking industry. Pressures must have an outlet and if curbed in one direction will turn toward another.

C. Conclusions

This historical development is the backdrop against which we must look at recent events. It is significant not only because it throws current developments into perspective but more important, it sets the environment in which the branch and merger movement is taking place. The banking industry has grown up. Drastic, sudden changes are unlikely. Bankers have a strong sense of public responsibility, and the supervisory authorities are aware of past mistakes. Whatever it may be like, the current branch and merger movement is different from anything that has happened in banking before.

The historical background suggests two conclusions. The first is that the banking industry has matured. It experienced severe growing pains in the first two decades of this century and a painful readjustment in the third, culminating in a disastrous 1933. Since then changes have been gradual and orderly.

The second conclusion is that the banking structure is moving steadily toward a greater proportion of branches. In only three out of the past 55 years has the number of branches declined.

The branch movement has picked up speed since World War II so that today about 30% of the number of banking offices are now branches. *

* 1 PP 2-8

2. Concentration of Banking in the United States

A. The Traditional Banking System

The banking system in the United States has been traditionally a banking system composed of a large number of independent banks serving the local needs of local customers. The great majority of American banks are relatively small having grown as their communities have grown, and the many banks, despite their number, provide a smoothly functioning banking service.

B. Multiple-office Banking

The extent to which branch banking as a form of concentration may develop in this country is determined for practical purposes by State Law. Some States permit State-wide branch operations, others prohibit the establishment of branches all together. The rest of the States have a limited form of branch banking or no limits at all. The result of this assortment of laws has been to produce a number of different types of multiple-office banking, including group and chain banking.

C. Concentration trends and their Measurement

It was natural that, as our economy grew and developed larger and larger business units for production and distribution, larger units of banking would be required and consequently some degree of concentration would result. The location of head or regional offices of large corporations in financial centers contributed especially to this

trend, since it gave rise to the need for large banking units capable of handling large transactions.

The tendency toward concentration in banking during any particular period may also reflect short-run changes in the economy. Changes in banking concentration over the years reflect the economic and financial adjustments to two world wars, to world wide deflation and depression in the thirties, to a great rearmament emergency during recent post war years.

Changes in the total volume of banking business during these abnormal periods have had a great effect upon the average size and size composition of units engaged in banking operations. The tendency toward concentration in banking may be defined as the transaction of a decreasing proportion of the Nations banking business by separate and independently managed banks. The following factors may be used to measure concentration.

1. Increases or decreases in the number of banks resulting from the organization of new banks, suspensions, mergers, and conversion of banks into branches.

2. Increases or decreases in the number of branches; such changes, however, effect principally the availability of banking facilities to their customers.

3. Increases or decreases in the number of independent bank

managements resulting from the acquisition of banks by group and chain systems or through the merger of independent banks even though branches may be established and the number of banking offices does not change.

4. Changes in the relative volume and geographic distribution of banking business transacted by small-size, intermediate-size, and large-size banks in the country as a whole and in individual States.

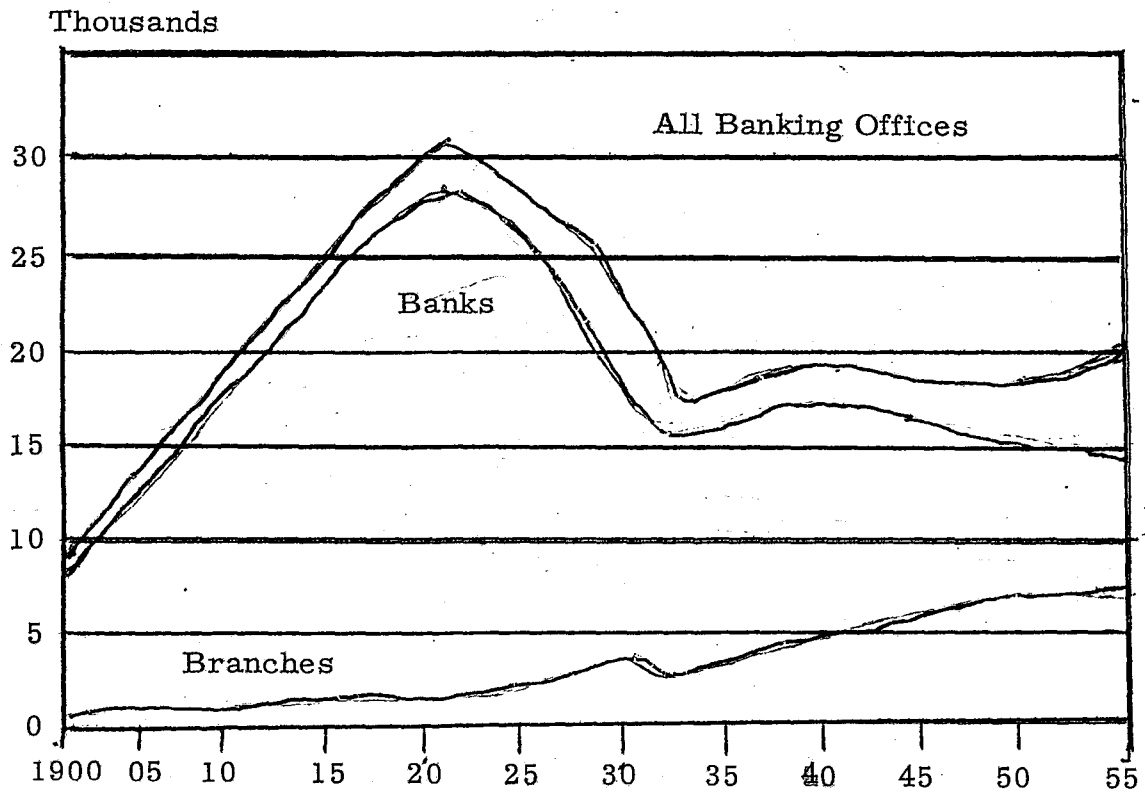
5. Overbanked or underbanked situations in relation to economic activity; these situations may result from the chartering of many banks, numerous bank failures, changes in population, etc.

The competition afforded by non banks, savings or lending institutions, such as savings and loan associations, insurance companies, government agencies, and small loan and finance companies, must be examined area by area for their effect on concentration and competition. These lending agencies have an effect on the commercial banks which is hard to measure but nevertheless must be considered in the concentration picture.

In considering the changes in the number of banks as indicating changes in banking concentration, it should be noted that the number has changed greatly in the last 50 years. The number more than tripled in the first two decades and the peak was reached in 1921. The number then decreased rather rapidly to the banking holiday in 1933. Chart I, page 10.

CHART I

The Changing Banking Structure
Number of Banks 1900 to 1955



Source: Federal Reserve Bank of Philadelphia

This decrease was so rapid that many towns and areas were left without any banking facility. Since the banking holiday we have had a period of gradual adjustment during which banking facilities have decreased in some areas and increased in others with some increase in the total. At the present time bankers and supervisory authorities seem agreed that there is a reasonable balance in the availability of banking in most areas. If a community does not have a bank or branch, there is one within a distance considered reasonable with our modern day transport.

Through mergers there is a tendency toward further concentration in certain areas, particularly in large cities. New York City is a good example. This tendency is explained in part by relatively low earnings and high capitalization of some city banks. This is merely a continuing adjustment of a relatively over-banked situation. Chart II, page 12, shows the changes in the number of banks since the banking holiday to 1951.

The number of banking offices (banks plus branches) has changed greatly in the past 30 years. Chart III, page 13, lists the States that had the most commercial banking offices in 1954 and 1920. Actually only eight states and the District of Columbia showed an increase during this period. Thus while the number of banking offices was declining from approximately 30,000 in 1920 to 20,700 in 1954, the population was increasing to 155,000,000. This

CHART II

Changes in the Number of Banks
Banking Holiday to 1951

	<u>Total</u> <u>1934-51</u>	<u>Total</u> <u>1934-35</u>	<u>Total</u> <u>1936-41</u>	<u>Total</u> <u>1942-51</u>
Number of banks beginning of period	15,029	15,029	15,869	14,825
New banks - organized	1,700	612	291	797
Reopenings of suspended and non liquid banks	866	839	26	1
Mergers and absorption	-1,988	-391	-766	-841
Suspensions	-344	-91	-230	--23
Voluntary liquidations	-796	-195	-327	-264
Other changes 1 *	151	66	-38	123
Number of banks end of period	14,618	15,869	14,825	14,618

1. Includes a net addition of 115 banks due to revision of statistical series in 1947.

Source: Comptroller of the Currency Reports

CHART IIIConcentration of Banking Offices 1920 - 1954

<u>State</u>	<u>1954</u>	<u>1920</u>	<u>Percentage Change</u>
New York	1,763	1,144	+44
Pennsylvania	1,285	1,573	+24
California	1,259	902	+39
Ohio	977	1,248	-22
Texas	921	1,548	-41
Illinois	910	1,498	-36
Iowa	825	1,704	-51
Michigan	765	874	-13
Wisconsin	708	979	-28
Minnesota	686	1,508	-55
Kansas	602	1,349	-56
Missouri	600	1,652	-64
Nebraska	420	1,199	-65
36 other States	9,895	13,189	-25
United States	20,695	30,367	-32

1. These States are arranged in the order of the first 10 States in 1950 plus the 3 States that were among the first 10 in 1920 but not in 1954.
2. The District of Columbia is considered a State.

Source: Staff report of the Board of Governors of
Federal Reserve System and the Comptroller
of the Currency.

results in the number of persons per banking unit more than doubling in the thirty year period. This factor has had an affect in the development of the number of banking offices over this period. The low number of persons per banking office in 1920 reflects in part the over-banking in many communities following the long period of rapid growth in the number of banks. Today our tremendous improvement in transportation and communication facilities have made banking offices much more accessible than they were thirty years ago.

Chart IV, page 15.

Mergers, consolidations and absorptions, regardless of whether the number of offices remains unchanged through the establishment of branches, have a tendency toward concentration through a reduction in the number of independent managements. Mergers, consolidations and absorptions result from a variety of factors the importance of which varies with changes in the general economy. These factors are discussed in detail in Chapter 4 on specific reasons for mergers. Generally we may say lack of successor management in smaller banks has been a factor and more capital in relation to assets resulting in lower earnings in large city banks such as New York City. Growth of industrial business has prompted the development of larger banks to meet the needs of these large business customers.

CHART IVBanking Units per Number of People 1934 and 195413 States prohibiting Branch Banking

	<u>December 31,</u> <u>1934</u>	<u>December 31,</u> <u>1954</u>
Number of banks	6,116	5,807
Number of branches	103	161
Total banking units	6,219	5,968
Number of banking units to population	5,569	6,566

14 States permitting statewide branch banking

Number of banks	1,722	1,320
Number of branches	1,221	2,447
Total banking units	2,943	3,767
Number of banking units to population	6,591	7,676

21 States permitting limited area branch banking

Number of banks	8,182	7,201
Number of branches	1,750	3,759
Total banking units	9,932	10,960
Number of banking units to population	7,020	7,463

Source: Comptroller of the Currency Reports

D. Group and Chain Banking

Mention should be made of group and chain banking when discussing concentration. Group and chain banking is a method by which a number of independently incorporated banks and their branches are controlled directly or indirectly by a corporation, business trust, association, or similar organization. One major feature a group system may have is to own or control banks in more than one State while a branch banking system is confined to a single State. For more detailed study the Transamerica Corporation case is recommended. This case also gives some insight into the determination of competition between banks. The courts held that a determination of monopoly had not been made for the five State area involved. Here competition was determined on a broad base somewhat different from the concept of the individual city or metropolitan area.

Chain banking is somewhat similar to group banking in that independently incorporated banks may have one over-all management, but the control is by one or more individuals rather than by a corporation.

Data is not complete on group and chain banking but from that available, groups had 309 banks with 1,004 branches or a total of 1,313 banking offices in 1951. Growth in recent years has been very small a gain of 86 offices from 1946 to 1951. Chain banks have actually been reduced in number as there were 908 banks with 101 branches in 1931,

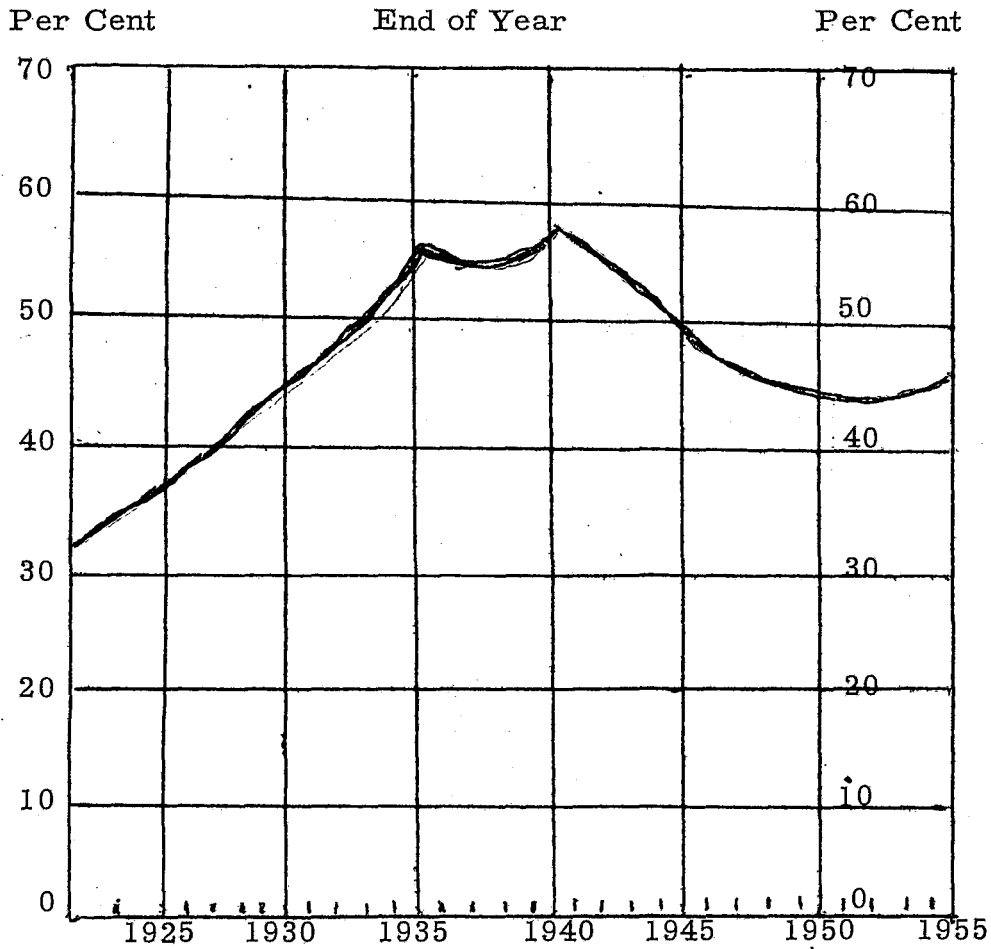
while in 1945 the numbers were 522 and 74 respectively. Over one-half of the chain banks in 1945 were in seven States: Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Texas. Six of these States prohibited branch banking and the other strictly limits its growth.

E. 100 Largest Banks

The American Banker and Bankers' Directories have listed the largest banks, ranked according to size, following each midyear and end of year call date for a number of years. Chart V, page 18, shows the proportion of total deposits held by the 100 largest commercial banks since 1923. This actually shows the relative concentration of deposits held by less than 1 per cent of the total number of banks. We can see that the high point in concentration of deposits was reached in 1940. The war years saw a decentralization of industry and a development of industry in the South and West. After the war, the proportion of deposits held by these banks leveled off at about 46 per cent of the total.

The list of 100 largest commercial banks is not a constant one. New banks appear at practically every printing and the size of the individual bank changes. Since 1939, 13 banks in the list of the 100 largest on that date have been involved in mergers or consolidations with other banks also included in the list at that time.

As there are only six banks remaining of the 13 that were

CHART VProportion of All-Commercial Bank
Deposits held by the 100 Largest Banks

Source: Staff Report Board of Governors of
The Federal Reserve System 1952.

CHART V-A

Deposit Trends for Selected Districts of
the Federal Reserve System as of December 31,
in selected years. Deposits for 1939 = 100%

	<u>Total All Districts</u>	<u>Boston</u>	<u>New York</u>	<u>Atlanta</u>	<u>Chicago</u>	<u>San Francisco</u>
1929	77	94	77	67	74	72
1939	100	100	100	100	100	100
1940	114	113	119	112	114	111
1943	187	179	164	228	202	228
1946	240	205	186	325	255	334
1948	247	203	184	327	272	335
1951	273	237	201	376	315	379
1952	299	251	214	412	341	417
1953	302	248	214	420	350	424
% Total 1939		5.6%	35.9%	3.5%	14.1%	9.9%
% Total 1953		4.6%	25.4%	4.9%	16.3%	13.9%

Source: R. L. Day & Company
A study of the Stocks of 36 Major Banks.
1954 Edition.

in the list in 1939 (mergers and consolidations) it might be well to compare the 100 largest in 1939 with the 93 largest in 1951. On this basis the decline in the proportion of deposits held by these banks would be greater than the chart shows. Chart V. . . page 18. The tendency toward merger and consolidation in the large cities has only partially off-set the tendency away from concentration resulting from the relatively greater growth since 1939 of banks in the South and West.

Banking, like retail trade or many other industries is a mixture of big and small business. There are a few very large banks and far flung branch or group systems but most of the banks are relatively small. Chart V-A, page 19.

F. Median insured Commercial Bank

In 1954 the median insured commercial bank fell in the group that had deposits between 2 million and 5 million. However 404 banks or less than 3 per cent of the total held nearly 62 per cent of total assets. Thus we can see factors in the economy which tend to give concentration and other factors which are pushing against this tendency. Should we try and control these forces with more regulation or should we let the economic factors shape the end result. Chart VI, page 21.

G. 1950 to 1955

Let us examine what has been happening in the past 5 years. Since January 1, 1950 the Comptroller's office has approved the

CHART VI

Percentage Distribution of Insured Commercial Banks
 June 30, 1954

<u>Size Group</u> Millions of Dollars	<u>Number of Banks</u> <u>Number</u>	<u>Per cent</u> <u>of Total</u>	<u>Percentage of</u> <u>Total Assets</u>
Insured Commercial Banks	13,400	100	100
1 or less	2,002	14.9	.8
1 to 2	3,084	23.1	2.7
2 to 5	4,340	32.3	8.0
5 to 10	2,012	15.1	8.1
10 to 25	1,189	8.8	10.4
25 to 50	369	2.8	7.3
50 to 100	189	1.4	7.5
100 to 250	123	.9	10.6
250 to 500	50	.4	9.7
500 to 1,000	24	.2	9.0
more than 1,000	18	.1	25.9
	Total	\$188,643	

Source: FDIC Annual Report 1954

acquisition by national banks of 184 other national banks and 192 State chartered banks through consolidation, merger, or sale, and has seen 118 national banks absorbed by State chartered banks after approval by the governing State Banking Department. Chart VII, page 23, shows the number of banks which have been absorbed since 1950, and their total resources.

This is a fairly large number of banks, yet the 494 institutions which have been absorbed represent less than 3.5 per cent of the total number of banks operating today. The importance of these transactions has been accentuated, of course, by the several large mergers which were recently consummated in New York City, in which three national banks with total resources of over 6.9 billion were absorbed by other banks.

Here is a situation with 494 banks out of about 14,400 (not including state chartered banks) that have been merged or in other ways have gone out of business. It may well be that more competition will result from these transactions rather than less.

See Chart VIII, page 24, for the annual average of Mergers, Consolidation and Absorptions, 1924 to 1951.

CHART VII

Data on Consolidations, Mergers, Purchases and
Sales, and Conversions - 1950 to May 1, 1955.

<u>Number of Banks</u>	<u>Type</u>	<u>Total Resources (Millions)</u>
64	National banks consolidated with and into other national banks.	\$ 935
19	National banks merged with other national banks	953
<u>101</u>	National banks purchased by other national banks	<u>1,116</u>
184	Sub-total	\$3,004
65	State chartered banks consolidated with and into national banks	\$1,451
10	State chartered banks merged with national banks	161
<u>117</u>	State chartered banks purchased by national banks	<u>608</u>
376	Sub-total	\$2,220
50	National banks consolidated or merged with State chartered banks	\$7,464
<u>68</u>	National banks purchased by State chartered banks	<u>790</u>
118	Sub-total	\$8,254
	State banks merged, consolidated or purchased with or by other State chartered banks. (Data not available to Comptroller).	
11	National banks converted into State chartered banks	\$ 132
22	State chartered banks converted into national banks	235

Source: Comptroller of the Currency.
Special report to Congressman Celler of New York.
Anti-trust Sub-committee of the Committee on the
Judiciary of the House of Representatives.

CHART VIIIMergers, Consolidation and Absorptions

<u>Period</u>	<u>Total</u>	<u>Annual Average</u>
1924-33 (1)	5,257	526
1934-37	760	190
1938-51	1,228	88

1. Commercial banks only.

Staff Report Board of Governors of the Federal Reserve System.

3. Branch Growth

A. Economic Expansion

The American economy has expanded with unprecedented speed since the start of the second World War. Bankers over-conservative by nature had fallen behind the economy both in growth and business methods. The present merger and branch trend within the industry is the logical answer to the pressures built up within the economy for change. Between 1929 and 1948 assets of America's 100 largest corporations grew about 160 per cent, the banks capacity to lend money did not keep pace. As a result banks began to lose much business to insurance companies and other lenders. Bank loans usually are limited for one customer to about 10 per cent of total capital funds.

If mergers were stimulated by the need to make larger loans and reduce expenses, they were also stimulated by the necessity to make many more smaller ones. Time was when "blue ribbon" banks prided themselves on this wholesale trade and disdained any small accounts. The war and post war inspired rise of a great new middle income group with tremendous income and purchasing power, made these bankers banks out-dated.

B. Retail Banking

To get into the "retail trade" required branches. There

are two ways to get branches, establish new ones which is often difficult, or the other and sometimes only method, merger. Banking authorities usually do not permit the establishment of new branches in localities where adequate service already exists. New York's Chase National a bankers bank with only 29 offices (all but two in Manhattan) merged with the Bank of Manhattan which had 67 branches spread across Queens, Brooklyn and the Bronx. The resulting bank with 96 offices distributed more generally over the New York City area should result in more rather than less competition. Chase National merged into the Bank of the Manhattan Company due to the very broad charter held by the Bank of the Manhattan Company. It also did not require Federal approval except for the branches involved.

C. A Reversal of Centralization

The centralization that went on during the twenties has reversed itself. We do not have a back to the farm trend but a general movement to the suburbs. Of a total U. S. population gain of more than 11.8 million in the last five years, suburbs of 168 cities have accounted for more than 9.6 million. Since 1950 the suburban population has grown by 27.8 per cent. Big cities have all but stopped growing. Their increase has amounted to a mere 1,888,000 or 3.8 per cent. Small towns are little more than holding their own with a 1,150,000 increase. Rural population is falling, having dropped nearly 2 per cent in the last

five years, major factor has been a near 12 per cent drop in farm population. *

Most new communities are populated largely by young married couples with children - families with large demands not only for day by day purchases but for major appliances, furniture and clothing. As these suburban communities grow, demands are created for new facilities of all kinds. Besides the multi-million dollar investment in shopping centers, schools are being built, sewer and water lines installed, municipal buildings erected, fire trucks and police cars purchased.

The Banking industry is acutely conscious of one of the most common aspects of our economy - the growth and decline of different geographical areas. The trend from city to suburb has been watched for some time. The automobile in the twenties gave the movement to the city a hard push, today it is having the opposite effect. Industry has not been moving out as fast as population. The tendency is to establish branches outside the city. This is particularly true of manufacturing, service industries having moved much faster. These areas and the related service industry need banking service.

* 3 PP 44 - 47

D. Branch Movement

The branch movement has been in effect for many years. The banking structure has been moving steadily toward a greater proportion of branches for the past 50 years. The recent activity has been merely an acceleration of the trend. Some bankers feel they should follow population trends and do more consumer credit business. There are communities which cannot support a separate bank with all the services given by a large bank but can be a profitable branch with excellent service, for one of these institutions. The laws of the several states have a great effect on the branch pattern. Some allow state-wide branches, others are limited to specific political sub-divisions, and a few states do not allow branches. Chart IX, pages 30 and 31.

During the year 1953, 218 certificates were issued to 166 national banks authorizing the opening or establishment of branches approved during 1953 or prior years. Of these 218 branches, 125 were in places other than the cities in which the parent banks are located.

Chart X, page 32, shows the number of branches authorized and number of applications rejected during the last 10 years by the Comptroller of the Currency.

Provisions of existing federal law require the advance approval of the establishment of branches by national banks, State

member banks, and non-member insured banks by the Comptroller of the Currency, Board of Governors, of the Federal Reserve System, and the FDIC, respectively. The various state requirements must also be met. Although many mergers and consolidations do not as such require prior Federal approval, it is frequently the case that a merger or consolidation involves the acquisition of one or more branches by the resulting bank; and in cases where the resulting bank is a State member bank, the acquisition of such branches must be approved by the Board. An example of this type of situation was the Chase-Manhattan merger. The merger itself did not require approval by Federal agencies, but the branches previously operated by the Chase National Bank now became branches of the new institution and as a member bank required approval.

E. Summary

This brief discussion of the branch movement establishes its position in the changing pattern of the banking structure. It also shows that while the number of banks remains relatively stationary, service facilities for customers are being increased each year. A growth in facilities is required to serve our ever expanding economy and especially the vast increase in the middle income group with their large purchasing demands.

CHART IX

Chart 3-1 shows the States in which National and State banks operate branches, the number of National and State banks engaged in branch banking, and the total number of banks 1953.

<u>State</u>	<u>Number of Natl. Banks W/Br.</u>	<u>Number of Natl. Bank Br.</u>	<u>Number of State Comm. Bks. W/Br.</u>	<u>Number of State Bank Branches</u>	<u>Total Banks</u>
Alabama	3	25	1	1	26
Alaska	2	4	1	1	5
Arizona	2	50	6	21	71
Arkansas	1	1	18	20	21
California	21	800	37	226	1,026
Colorado *	-	-	1	1	1
Connecticut	10	32	15	44	76
Delaware	-	-	8	33	33
District of Columbia	8	24	7	22	46
Florida *	-	-	-	2	2
Georgia	8	31	9	18	49
Hawaii	1	21	3	29	50
Idaho	4	55	4	9	64
Indiana	23	56	47	82	138
Iowa	-	-	121	163	163
Kentucky	6	25	24	30	55
Louisiana	13	46	33	46	92
Maine	7	13	20	69	82
Maryland	7	20	26	116	136
Massachusetts	25	105	33	107	212
Michigan	15	114	64	192	306
Minnesota *	2	6	-	-	6
Mississippi	3	7	38	69	76
Nebraska *	2	2	-	-	2
Nevada	2	14	2	6	20
New Hampshire *	1	1	1	1	2
New Jersey	37	102	33	103	205
New Mexico	4	7	9	14	21

* Indicated States do not at present permit establishment of branches.

(Contd. next page)

CHART IX (Contd.)

<u>State</u>	<u>Number of Natl. Banks W/Br.</u>	<u>Number of Natl. Bank Br.</u>	<u>Number of State Comm. Bks. W/Br.</u>	<u>Number of State Bank Branches</u>	<u>Total Banks</u>
New York	55	251	76	650	901
North Carolina	17	37	60	233	270
North Dakota	-	-	15	22	22
Ohio	36	119	47	183	302
Oregon	3	93	10	22	115
Pennsylvania	55	176	44	131	307
Rhode Island	2	10	6	47	57
South Carolina	9	47	13	19	66
South Dakota	4	22	24	29	51
Tennessee	13	63	27	54	117
Utah	1	18	8	14	32
Vermont	3	4	5	7	11
Virginia	24	49	42	78	127
Virgin Islands	1	1	-	-	1
Washington	13	148	8	18	166
Wisconsin *	4	15	86	135	150
TOTALS	447	2,614	1,034	3,067	5,681

* Indicated States do not at present permit establishment of branches.

Source: Comptroller of the Currency Reports.

CHART X

This chart shows the number of branches authorized and the number of applications rejected for the 10 year period 1944-53 by the Comptroller of the Currency.

	<u>44</u>	<u>45</u>	<u>46</u>	<u>47</u>	<u>48</u>	<u>49</u>	<u>50</u>	<u>51</u>	<u>52</u>	<u>53</u>	
Branches Authorized	22	57	85	108	100	100	159	153	177	218	1,187
Applications Rejected	4	38	56	50	29	37	46	54	71	79	464
Total	26	95	141	158	137	137	205	207	248	297	1,651

Source: Comptroller of the Currency Reports.

4. Immediate Reasons for Bank Mergers

A. Introduction

Data from the several sources of bank statistics indicate that more and more banks are merging all over the nation, including some of the biggest in the country. In this chapter we intend to discuss the reasons behind these mergers. These reasons must be considered as the short term factors in the growth trend of the banking structure.

B. Why

The first thing to determine in the branch and merger movement is "why". This probably is the most important question to ask, and is also the hardest to answer. Many reasons are given but it is difficult to weigh their importance and organize them into a consistent pattern. In a given situation in which the facts appear similar a number of interrelated motives are usually at work, and these motives may not develop in the same way for each merger.

We may generalize and say that branches and mergers are methods used by bankers to solve some of their problems. What the problems are and their relationship to mergers must be answered. These problems may be separated into two main groups: problems arising from basic forces at work in the economy, and the more superficial problems of the moment.

The economy we live in is dynamic. There are currents and cross currents which change the methods of business to such an extent, that to stand still may prove fatal. No one realizes this more than the banker. The middle aged banker is able to look back on several fundamental changes in the environment in which he does business. Experience has taught him that he must adjust to these changing conditions. He is rewarded for a successful adjustment and penalized if he doesn't. The rewards and penalties are expressed in dollars and cents. Over the long term banks must meet the needs of the community if they are to survive and prosper.

C. Three Basic Changes in the Economy

The economic environment in which banks operate has changed in at least three basic ways which are closely related. The first is quantitative -- a tremendous growth in size. Chart XI, page 36. The second is qualitative -- important shifts in the nature of the economy. The third is locational -- the growth and decline of various areas. These are the basic areas or forces in the economy which are changing the banking structure in the nation.

D. Quantitative Changes

The dollar volume of goods and services has tripled in the last twenty five years. When allowing for price increases output has doubled. This expansion has meant more business for banks, and banks

have expanded to take care of it. The number of business concerns has increased by only about one-third. With the volume of business growing faster than the number of businesses, the long-term trend has been toward larger business units. Bankers regard this as a trend requiring larger banks. This reason is not as valid as it once was. This was an argument used in the twenties for branch banking, however, the number of individual banks has been cut in half. The average bank today is about 5 times as big, in terms of capital and surplus, as it was in the twenties -- meaning it can lend much more to the individual borrower. Large business now finances more of its needs from internal sources and can turn to other institutions, such as insurance companies, if it needs outside financing. Chart XII, page 37.

Even though the desire for bigger banks is not as strong as the merger boom of the twenties, it is still an important consideration. Looking forward to growth in the economy, some bankers have taken steps to enlarge the lending capacity of their institutions. The recent mergers in Connecticut are an illustration of this. As the result of a number of mergers, the Connecticut Bank and Trust Company and the Hartford National Bank have grown large enough to service many borrowers that formerly would have had to turn to either the Boston or New York Banks. This is also an example of a tendency toward lessening competition in a local area while increasing competition between nearby financial centers.

CHART XISelected banks showing deposit gains from 1935 to 1953.

<u>Bank</u>	<u>Per cent gain in Deposits</u>
American Trust Company - San Francisco	393
Bank of America - San Francisco	570
Bank of the Manhattan Company - New York 1*	169
Chase National Bank - New York 1*	144
First National Bank of New York - New York 2*	21
National City Bank - New York 2*	224
National Bank of Detroit - Michigan	362
National Bank of Cleveland - Ohio	393
Philadelphia National Bank - Pennsylvania	90
Girard Trust Corn Exchange Bank - Pennsylvania	161
First National Bank of Dallas - Texas	507
Republic National Bank of Dallas - Texas	752
Seattle-First National Bank - Washington	390
United States National Bank of Portland - Oregon	669
Valley National Bank - Arizona	1,045
First National Bank of Boston - Massachusetts	142

Source: Basic Data the Bankers Directory

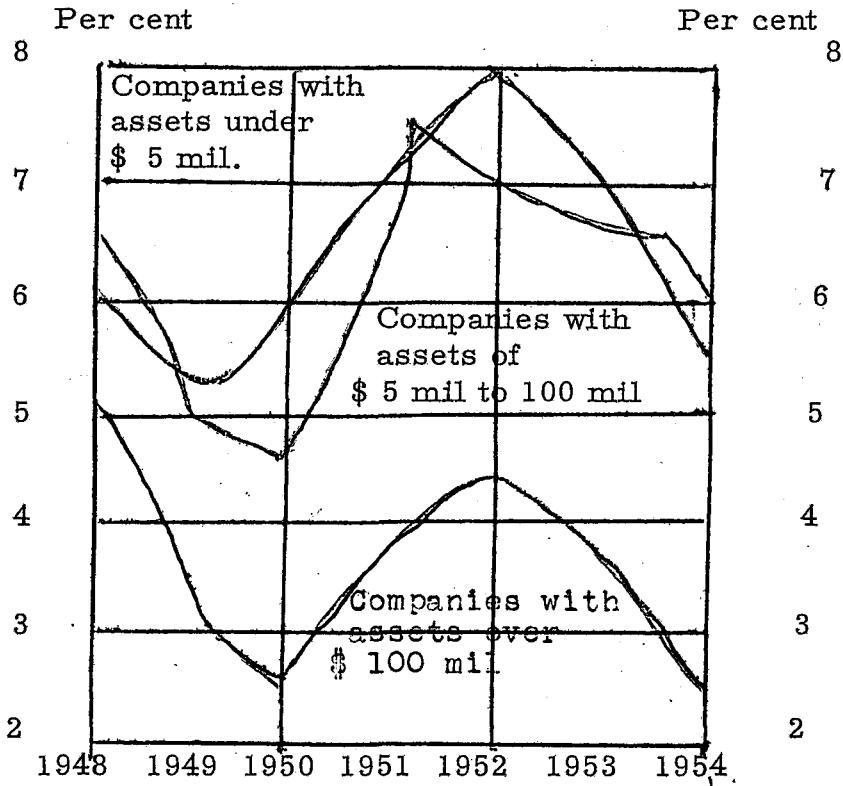
*1. Merged together now.

*2. Merged together now.

CHART XII

Small Manufacturers Use More Bank Credit

Ratio of bank loans to total assets.



Source: Basic data F. T. C. --- S. E. C.
 Compiled by the Chase Manhattan Bank

This reason lies behind some mergers of small banks into larger banks and the creation of new branches by large banks. The Nassau County mergers in New York are another example of this trend. Here we have several small banks merging into two much larger institutions. As individual banks they could not compete very successfully with the growth trend nor with the large New York City banks. Today the two absorbing banks, the Franklin National and the Meadowbrook National seem to be giving the community better banking service and are offering more competition to the New York City banks. Competition from other sources is illustrated in this same area. Savings and Loan Associations in Nassau County had loans of \$265,718,000 on December 31, 1954, as compared to commercial bank loans of slightly over \$404,000,000.. *

Banks have been growing in the ordinary course of business as the economy has grown. The number of unit banks has remained relatively stationary in the past decade. Growth is shown in the past ten years as today there are about 4,150 banks with deposits in excess of 5,000,000 where ten years ago there were only 3,221 such banks. There are now 230 banks with assets in excess of \$100,000,000, as against 184 in 1945. Mergers have added to the growth of individual institutions. In 1954 there were 206 mergers, and in 1953 some 115 occurred. This is a larger number than has been typical of the years

* No. 7

since the early thirties, although the number of banks absorbed in mergers is only a small fraction of the total - about 4.5 per cent since the end of 1949. These mergers have in no sense changed the basic structure of American banking, but the number and the New York City mergers have called attention to them. Industry is growing through mergers and so do banks. There is also the psychological desire for prestige that goes with bigger banks. This may not be size for its own sake, but rather growth for its own sake. A growing organization keeps looking ahead for more growth as the internal spirit of the institution is geared for growth. All concerned seem to think in terms of growth and what it can do for them. (see later paragraph on earnings and salaries).

E. Qualitative Changes

Qualitative changes have perhaps seen the most significant change-over the past few decades next to the increase in over-all levels. The greatest change in this sense has been in income distribution. We have relatively fewer of the very wealthy or the very poor, and many more in the middle-income brackets. This change in income distribution has created the mass market which today is the single greatest force in the economy.

A great new middle-income group has been created, with almost 55 per cent of our families receiving cash incomes between

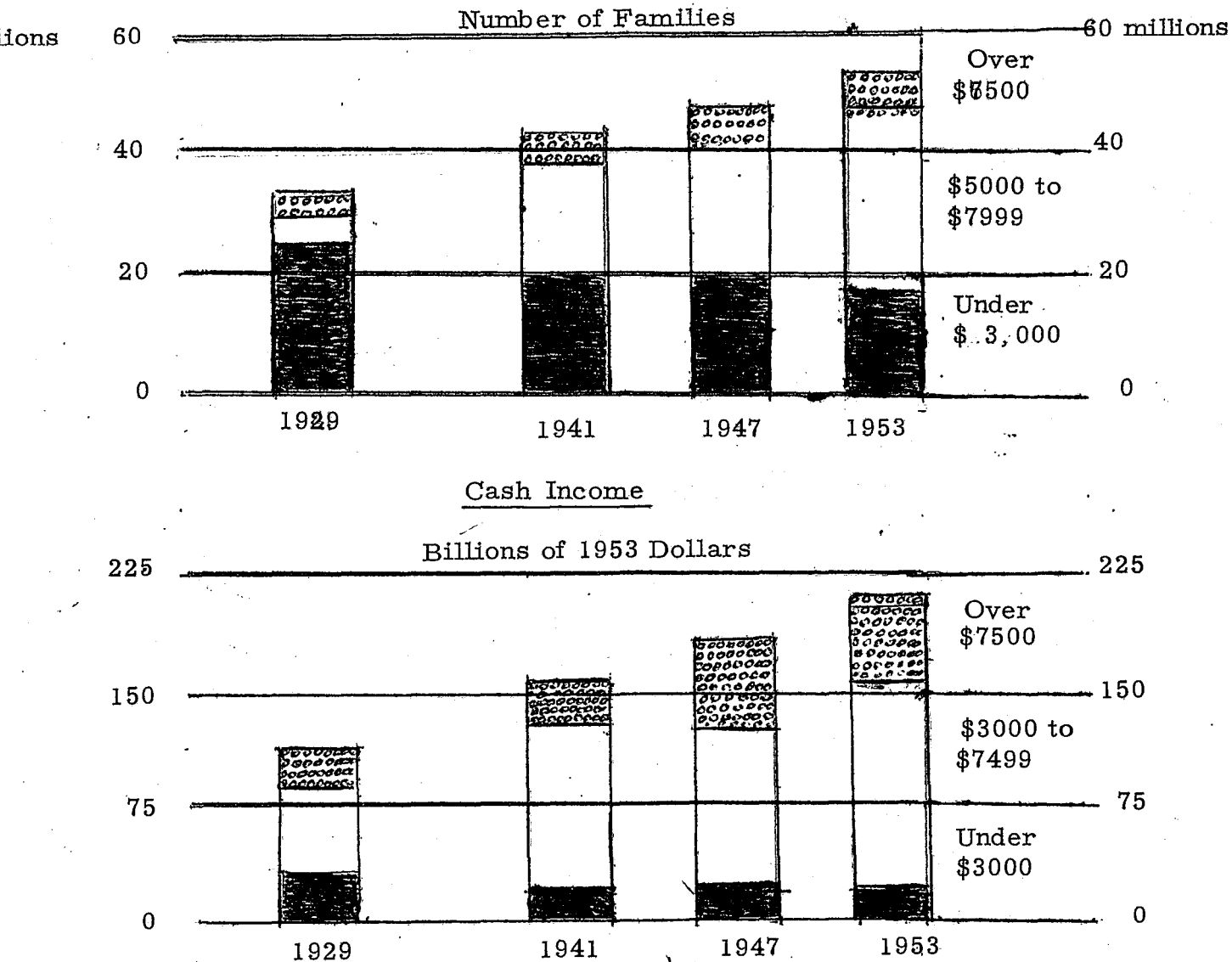
\$3,000 and \$7,500. Chart XIII, page 41, shows the growth of this group, which has more than tripled in number and purchasing power since 1929. This middle-income group has now become a principal source of deposits for banks. These deposits offset in part a relative decline in deposits by business firms, which now invest a large share of their idle funds in short-term Government securities. This group has become an important and stable borrower from banks. *

The consumer with his terrific demand for goods and particularly durable goods is the king of the economy. The average consumer feels more mature in financial matters. He has checking or savings accounts, life insurance, savings bonds, and monthly payments for house, car, TV set, and other durable goods. The philosophy of debt has changed. Today the individual is ready to mortgage future income to satisfy a current desire, when a few years ago he would save the purchase price and make a cash payment. This change in the feeling toward debt has led to the great expansion of retail credit. The consumer feels that if a serious economic decline took place the Government would act to protect him. This gives him a feeling of security and a willingness to go into debt. Chart XIV, page 42.

If a bank is to be in the retail business, it must go where its customers are. The great growth of the middle-income group, and

CHART XIII

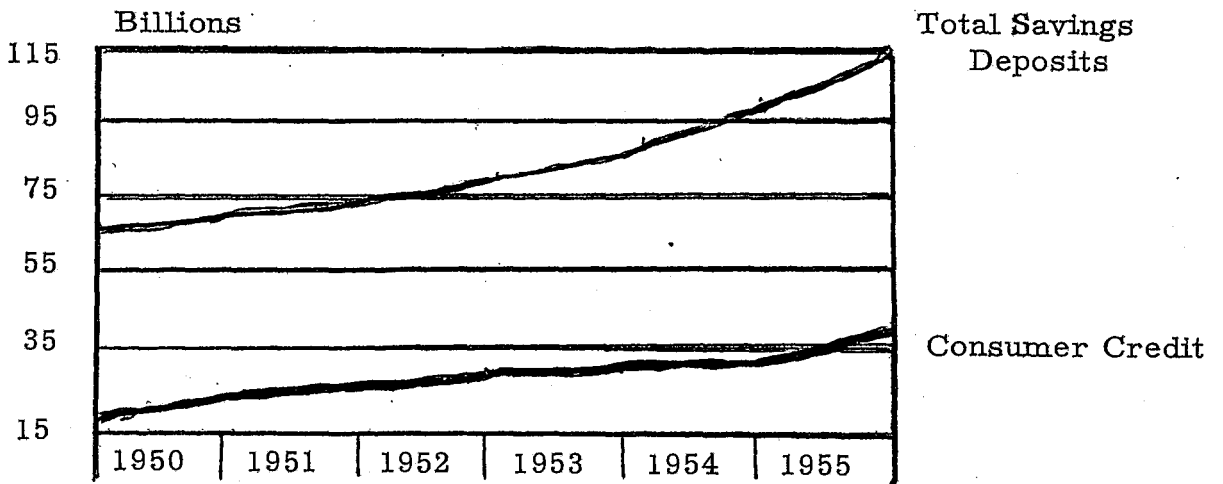
Growth of the Middle Income Market



Source: The Changing American Market
 The rich middle man class
 Fortune Magazine, May 1954.

CHART XIV

Growth in Consumer Credit and Savings Deposits 1950 to 1955



Source: Merrill Lynch, Pierce, Fenner and Beane

their trend away from the centers of cities, has required the establishment of branches within local areas. Many times the only way this can be accomplished is through the process of merger.

The United States now plays a larger role in the world economy. Our foreign trade is three times that of 1940. We have a new responsibility in the whole area of international economic cooperation. This, with the growth in domestic business and the process of satisfying consumer demand has multiplied the complexities of business. We now need more experts with specialized knowledge to solve the technical problems. These experts cost money which the smaller banks do not have. Larger banking units are required to provide the needed specialization.

F. Locational Changes

The Third basic factor in mergers is "locational" changes. One of the most common aspects of our economy is the growth and decline of different geographical areas. As a general rule the older industrial areas of the country are growing at a lower rate than the newer areas. Population growth is not distributed evenly over the country. Our older centers of population are not showing the growth characterized by other sections of the country. Not only do we have country-wide shifts in population but also local changes as discussed in Chapter 3.

Industry is also moving away from the center of industrial areas. This trend is not as pronounced as the population shift but is a factor which must be considered. Government at the national level supports a decentralization of industry for defense reasons. Transportation facilities have improved to the point where a plant in the fringe area is practicable and profitable. Land costs are cheaper, parking area for workers cars are provided and better working conditions may result which assist in labor relations. To cite one example of this trend let us examine the Metropolitan Boston area. Actual new plant construction within the city itself is negligible, population has decreased also. New plant construction has been in the so-called fringe area of the Metropolitan district. These plants have tended to locate along the new highways such as Route 128. The 1955 annual report of the Federal Reserve Bank of Boston has an excellent summary of this development. Population growth in the fringe communities has been rapid with community services over-taxed. There are indications this trend will continue.

Bankers have to take notice of these trends as well as sales managers. Banking service has to be provided for these new areas. In many cases mergers and branches may be the best way to provide the service. It can be debated that the increased business provided by a growing community will increase the size of the local bank, if

there is one, so that it can take care of the needs of the community. Given time this is probably true. In many of these cases additional capital funds are required if the bank is to grow successfully. Raising additional capital is not always possible and a merger results.

G. Technical Problems

The growth in business and the process of satisfying consumer demand has multiplied the complexities of business. We now need more experts with specialized knowledge to solve the technical problems. Top management must be able to take a broad view of events and delegate the technical problems to the expert. These experts cost money and must be paid. Larger banks have the resources to hire these people.

H. Traditional Banking

Some bankers have been reluctant to move away from the traditional field of commercial banking. This may be a partial reason for the growth of other lending agencies - public and private. Banks have lost business which they might like to have had. Many banks have reacted, often after a change in management by moving into new fields. For years some banks had been "wholesalers" of credit, dealing mostly with a few large concerns. When they saw the growth of "retail" banks they decided to go after the consumer also, and this step required branches. Banks which have concentrated on a specific type of business

such as trusts, have decided a more complete banking service must be offered. The cheapest and quickest way to get these things is through mergers. (The 1st National Bank of New York is a good example of a "wholesaler" which merged with the National City Bank of New York).

I. Earnings and Costs

Bank earnings must be mentioned in any discussion of the merger movement. Some bankers feel that earnings are not all they might be. Interest rates have been held relatively low by Government authorities as a matter of public policy. (Rates gone up in the last six months to check an over-expansion of credit use). This together with the past war inflation of more than doubled costs has placed banks in a cost-price squeeze. The result has been a lower level of earnings for banks than for the rest of industry. Since 1947 the rate of return on stockholders investment in all Federal Reserve member banks has averaged 7.9 per cent as against 11 per cent in manufacturing. This is one of the factors for the trading of bank shares in the market at prices substantially below book value.

The fact that many bank stocks were selling at a figure substantially below book value allowed other banks or individuals to purchase the stock at a favorable price. Low earnings led to bank shares selling in the market at discounts which until quite recently

ranged from 10 per cent to as much as 50 per cent. In many instances a premium was offered which was too attractive to be refused. Dividends on these stocks were low and the investor saw a good change to sell out at a substantial profit. Others saw this as an opportunity to take their capital out of the business through mergers and undoubtedly did so. This has been true in many of the smaller banks absorbed.

The Federal Reserve Bank of Philadelphia has made a study of the "terms of mergers and purchases" in the third district. * Book value is sometimes an inaccurate measure, primarily because some banks carry certain assets on their balance sheets below their true worth. There are two adjustments which are most frequent - the value of the banking house for many banks carry this asset at a conservatively low figure, and in the value assigned to investments to agree with current market value. Market price of stock is the least accurate measure of merger terms. It is less accurate because bank stocks, except for stocks of the larger city banks, are usually closely held and seldom traded. If you try to get an accurate market price of the stock of a small bank, you are likely to end up with the price at which the last sale was made (which might be some time ago) or the last price bid (which might or might not be a good reflection of market value in view of the fact that probably no shares were offered for sale). Chart XV, page 48.

* 2 PP - 10 - 19

CHART XV

Four Measures of Merger Terms
Third Federal Reserve District
1946 to Mid 1954.

For Every #1 of-	Stockholders of absorbed banks recd.	Stockholders of absorbing banks rec.
Book Value	\$1.05 of cash or book value of the combined bank	\$0.99 of book value of the combined bank
Earnings	\$1.21 of earn- ings of the combined bank	\$0.99 of earnings of the combined bank
Dividends	\$1.51 of divi- dends of the combined bank	\$0.98 of dividends of the combined bank
Market Value	\$1.30 of market value of stock in the absorbing bank	

Source: Third Federal Reserve Bank
66 mergers in the period covered.

Reporting earning as shown on the balance sheet are also subject to examination. Banks have several ways to conceal earnings through accounting practice. When making a study of bank earnings net operating earnings before allocation to reserves is a better figure to work with. When analyzing bank earnings a good method to use is add the net after operating expenses for a given number of years, add the dividends and changes in undivided profits for the same period. If you do not end up with a comparable figure, a search must be made to see where it went.

The squeeze between rising costs and a more or less fixed interest rate until 1951 tended to reduce earnings and force banks to look for more profitable business such as retail banking. The results of the past few years indicate the retail banks have made the best gains in earnings. Consumer loans tend to be more profitable than business loans. Otto C. Lorenz, in a survey done for the "American Banker" reports that 16 banks with \$270 million total outstanding were showing net profits from consumer loans averaging better than 5% in the second quarter of 1954. Wage and salary payments of banks are now two and one-half times their 1945 level. Part of this increase is larger employment but a main cause is an advance of two-thirds in the salaries of bank employees. These increases are justified and actually fall behind many of our manufacturing industries. Tax payments, cost of supplies,

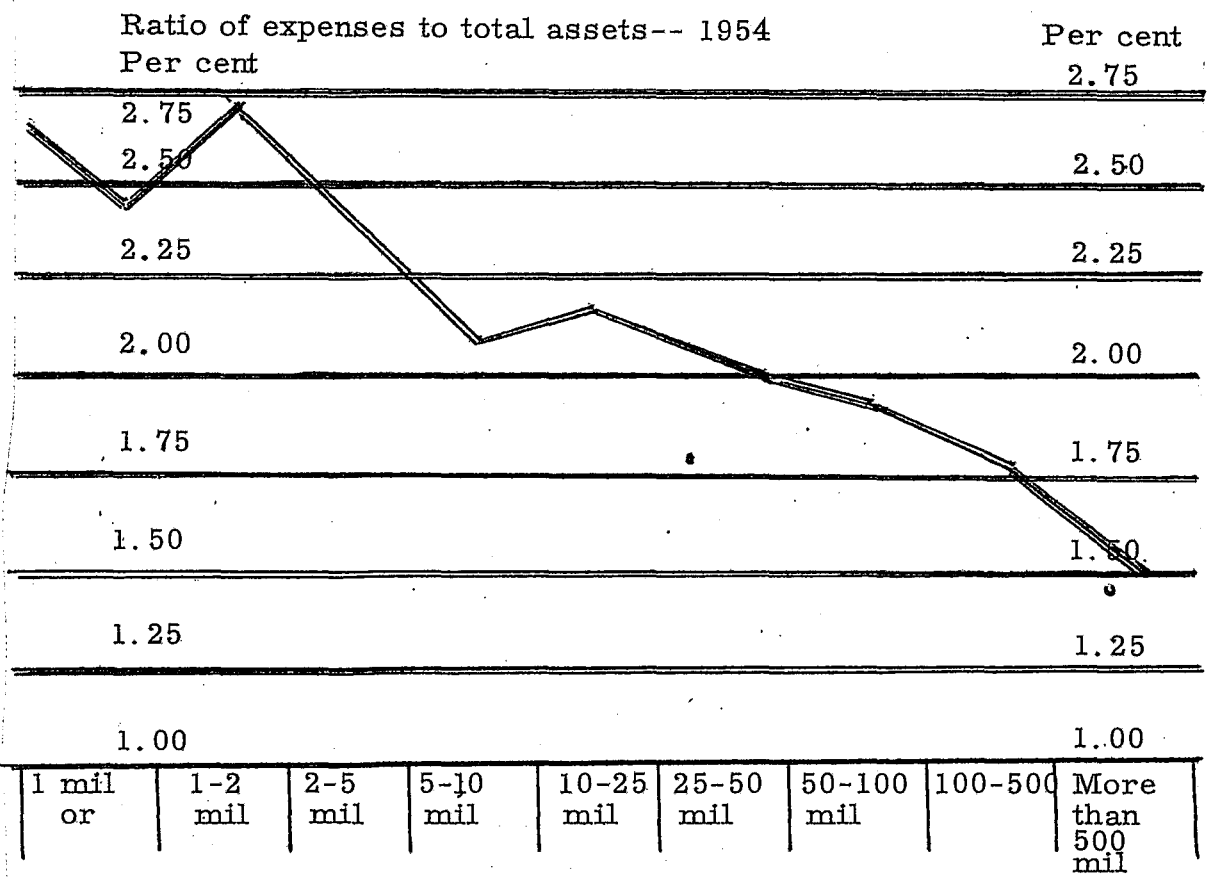
rents and other costs of doing business have risen extensively. Costs have tended to increase faster than the basic interest rate.

Banking is in the peculiar position of not being able to raise its prices as the cost of doing business moves higher. Our closely regulated industries such as telephone, utilities, and the railroads can apply to the regulatory agencies for rate increases. Banks cannot do this. They have for the past few years been caught between rising costs and a relatively cheap money policy. Cheap credit may have been in the public interest but bankers have had to cut costs to make both ends meet. An individual bank cannot in the short term expand its over-all earning assets except by small amounts. The total of commercial bank deposits has risen about 20 per cent since 1945. This has resulted in an average return of 7.9 per cent as stated previously. For many banks the return has been less as this is the average.

This squeeze on earnings has been a further pressure to economize through combining in large units. A characteristic of banking is a tendency for the operating expense ratio to fall as the size of the bank increases. Chart XVI, page 51 graphically illustrates this tendency. Examination of the chart shows that for banks with assets of more than \$500 million, expenses in 1954 ran to 1.52 per cent of assets, or 30 to 40 per cent less than the smaller banks.

CHART XVI

Operating Expenses Fall
as the
Size of Banks Increase



Source: Computed from data in F.D.I.C. annual report, 1954 by the Chase-Manhattan Bank

The saving in costs by larger banks is realized in a number of ways. Overhead is spread more widely and a large bank can use mechanical and electronic equipment more effectively. The number of transactions which arise from the services performed is tremendous - the clearing of checks, handling of collections, servicing investments held for correspondents and the like. Volume makes the machine a money saver as unit costs are reduced.

J. Personnel

There is one other major effect attributable to bank earnings. This is the ability of individual banks to attract able personnel to carry on management in the future. This is an important factor as the Comptroller of the Currency has indicated that lack of succession management has been one of the most important reasons for mergers in recent years. This is one of the most serious problems confronted by banks today. A number of banks and the number is large, do not have the ability to compete effectively with industry and trade for the high quality personnel which are needed. The smaller banks are the most affected. In the 1953 class from the Harvard Business School, the men received the following average starting salaries: Manufacturing - \$5,086; Marketing - \$4,569; and at the bottom of the list, Commercial Banking - \$4,066. The banks are starting men at 20 per cent less than industry, a matter of \$1,000 a year. The man is going to take the

higher paying job. To cite an actual case, let us use a rather small southern bank for the smaller banks are having the most trouble. This bank has deposits of about \$500,000. It has a 70 year old manager who is paid \$3,000 a year, and an assistant who is paid \$2,000 a year. What happens when the elderly gentleman or his assistant retired. They cannot be replaced at this salary figure. No one has been trained to move up so the bank must sell out or merge with another. This is an extreme case but points out the difficulty banks are having. Most of our small banks cannot afford to train successor management nor can they offer the right type of individual enough inducement salarywise to stay with the bank until they move into the top position. Larger banks have a little more money to spend for personnel but still cannot afford to train as many people of the right caliber as are required. Banks along with the American Institute of Banking are doing their best to overcome this weakness. This lack of management talent gives rise to mergers and consolidations. A public policy which insists that a bank be continued as an independent entity in the face of its inability to support able management would in the end lead to poor banking and possible losses.

K. Immediate Reasons for Mergers

A great deal of space has been given to the discussion of the reasons for mergers and absorptions and the underlying factors

in the economy which are forcing these changes. Let us look now at the reasons compiled by the Federal Reserve System and the Comptroller of the Currency. Each agency comes up with similar reasons but the Comptroller has a greater list due to data kept on the reasons for mergers.

First we will state the three major reasons cited by the Federal Reserve System.

1. The favorable prices at which the smaller banks may be purchased. Stocks of these banks have been selling below book value and even when a premium has been offered are still a good buy.

2. The desire by large city banks for banking outlets in suburban areas. Follow the customer in the retail banking trend and the cheapest way to do this is to merge and use the merged bank as a branch.

3. The need for stronger successor management is the cause for many relatively small banks to merge. When this management is not obtainable merger is often the only solution if the bank does not liquidate.

Secondly, we will state the major reasons cited by the Comptroller of the Currency.

1. Problems in top management or the succession management problem.

2. The prices or terms which have been offered have been found

attractive by shareholders, Shareholders have found it more profitable to sell than to hold.

3. Smaller banks have joined forces in order to provide more effective competition to nearby large institutions.

4. The failure of some banks to compete on an aggressive and progressive basis.

5. The inability of some smaller banks to meet the borrowing needs of the community.

6. In many cases local business or industrial concerns which were of major importance to a small town bank have been sold to large concerns which have their banking ties in the cities. When this develops the small bank usually receives a smaller percentage of the banking business of the concern, and sometimes finds it advantageous to combine with a larger bank.

7. Fringe benefits and increased compensation available for offices and employees from the potential absorbing bank have caused management to back many mergers.

The Comptrollers office maintains a record of the reasons for all voluntary liquidation of national banks. From 1950 to May 1, 1955, 101 national banks were purchased by other national banks and 68 national banks were purchased by State chartered banks. Thus 169 national banks were placed in voluntary liquidations. Chart XVII, page 56

CHART XVII

Reasons given for the liquidation of 169 national banks from
1950 to May 1, 1955.

<u>Reason</u>	<u>No. of cases in which reason was given</u>	<u>Percentage of 169 causes</u>
1. Management problems	68	40
2. Attractive prices	65	38
3. Identical owners desired to combine banks	33	20
4. Weak earning capacity	21	12
5. Closely held banks - owners desired to retire from banking	9	5
6. Managements considered the services of a larger bank necessary to serve community	7	4
7. To achieve a more effective competitive status	7	4
8. Overbanked communities	5	3
9. Uneconomic banking units	4	2
10. Embezzlement	4	2
11. To obtain fringe benefits for officers and employees	4	2
12. To avoid control of bank by undesirable persons	3	2
13. To avoid Federal Reserve restrictions	2	1
14. Reluctance to raise needed capital	2	1
15. Miscellaneous	5	3

More than one reason prompted many of the liquidations.

Source: Comptroller of the Currency.

gives the reasons why these banks sold out. More than one reason prompted many of the sales.

L. The Nature of the Continuing Bank

This discussion should not close without examining for a moment the nature of the continuing banks in these transactions. Why do some banks have the desire or consider it necessary to merge with or purchase other banks. There is to some extent an overlap with the reasons given for the banks which are selling or merging. The most important reasons are these.

1. The need to obtain banking offices in adjoining areas in order to obtain to a greater degree the benefits of volume or retail banking. They wish to serve large numbers of individuals and small businesses where accounts and loans are relatively small.

2. The need or desire for banking offices in areas where they can better service present business.

3. The need for larger loaning limits and more available deposits to loan. This need has developed from the general growth of industry.

4. Keen competition with other banks, and the normal urge to expand and improve earnings.

5. Earnings. Each of the above factors has a direct bearing on this point.

Banks have not been merging for prestige and size alone.

The various factors and trends in the economy have a great effect on the banking structure. Is our banking system becoming too concentrated? Some think so and would strengthen present merger laws to slow the trend.

5. Regulatory Agencies and Present Regulations

A. The Federal Regulatory Agencies

Banks are supervised by three separate Federal Agencies, each of which has a distinctive field of supervision. These agencies are: The Federal Reserve Board, The Comptroller of the Currency, which is a section of the Treasury Department, and the Federal Deposit Insurance Corporation. The Federal Reserve Board is concerned with member banks which are not part of the National bank system, the Comptroller of the Currency is concerned with those banks in the National system, and the Federal Deposit Insurance Corporation is concerned with all insured banks, but for the purpose of this study is limited to insured banks which are not member banks or national banks.

B. State Regulation and Branches

We are concerned primarily with Federal regulatory agencies but the fact should not be forgotten that there are 48 State banking departments which enforce the law of the individual states. From the consolidation and merger standpoint it is well to note that 13 States prohibit branch banking, 14 States permit state-wide branch banking, and 21 States permit limited area branch banking. This is noted at this time as the different State laws have a great effect on the banking structure. Mergers and consolidations are greater in

states which permit branch banking. Thus the basic philosophy of the individual state toward area coverage has a large effect on concentration within the banking structure. *

State supervisory authorities must always be taken into consideration when discussing Federal regulation or changes thereto for the principal of States Rights is always present. When Federal laws and regulations are changed it is usually a case of more control and when this happens the States lose some of their powers. Today we have a divided authority, State and Federal. Some of the recent proposals for controlling bank concentration would take authority from the States.

C. Basic Anti-Trust Laws

Before examining the Federal supervisory agencies, attention should be given to our two basic anti-trust and monopoly laws. The Sherman Act of 1890 established our national policy that free competition was to be the law of trade in this country. Mergers of banks as well as industrial corporations were proscribed by that act if the combination resulted in lessened competition to a degree that would injuriously effect the public.

In 1914 Congress again considered the problem of mergers and concluded additional legislation was necessary to prevent monopolies and restraint of trade in their incipiency. The Clayton Act was adopted

for this purpose. Section 7 of the Clayton Act prohibited bank mergers and industrial corporate mergers achieved by stock acquisition when the effect might be to substantially lessen competition or tend to create a monopoly.

This wording left a gap which has been used by industry and banks. Banks and corporations could acquire assets of other firms and thus avoid the provision of Section 7. Part of this gap, as it applies to industrial corporations was closed by the Celler-Kefauver anti-merger Act of 1950.

D. The Federal Reserve Board

Now let us examine the present responsibilities of the Federal Reserve Board. At the present time the Board is vested with authority to enforce the provisions of the Clayton Anti-Trust Act where applicable to banks. Section 7 of that act referred to above, prohibits any corporation from acquiring the stock of other corporations engaged in commerce where in any line of commerce in any section of the country the effect may be substantially to lessen competition or tend to create a monopoly. As far as banks are concerned, this section applies only to acquisition of stock. It does not cover acquisitions of bank assets and does not cover bank mergers and consolidations.

National banks and State banks which are members of the Federal Reserve System are prohibited from purchasing corporate

stocks and many States have a similar provision for State banks. This provision of the Clayton Act, as presently in force, is of little significance as applied to banks. Actually, as a practical matter, it applies only where a non-banking corporation - a bank holding company acquires the stock of banks.

The Board has instituted proceedings in only one case under the Clayton Act. This was the Transamerica case in which the courts ruled against the Board basing their findings on the fact that there had not been a determination of the five-State area as the effective area of competition and that there was insufficient evidence of competition or leasing of competition between the banks which had been acquired by Transamerica. This case is so vast in its scope and as we are not primarily concerned with bank holding companies, it will not be gone into further.

Apart from the Clayton Act, the Board has other functions under present law which involves considerations of the competitive aspects of banking and tendencies toward monopoly in the banking field, although such considerations are not specifically mentioned in the law itself.

Under legislation enacted in 1933 the Board exercises some functions with respect to bank holding companies. A bank holding company controlling a bank which is a member of the Federal Reserve System and

wishes to vote its stock in that bank must first obtain from the Board a voting permit and comply with certain requirements and conditions. This law does not limit or prevent the acquisition of bank stocks by holding companies.

The Federal Reserve Board under section 18 (e) of the Federal Deposit Insurance Act must pass in advance upon mergers and consolidations of banks within their area of authority, when the capital stock or surplus of the resulting bank will be less than the aggregate capital stock or aggregate surplus, respectively of the banks involved. This is a very limited authority so that most mergers and consolidations do not have to be passed on in advance.

Other provisions of existing law require the advance approval for the establishment of branches by State member banks. Many mergers and consolidations do not as such require prior approval, but it is frequently the case that a merger or consolidation involves the acquisition of one or more branches by the resulting bank. In those cases where the resulting bank is a State member bank, the acquisition of such branches must be approved by the Board. The Chase-Manhattan merger was a situation of this kind. In passing on the type of transaction just mentioned the Board considers the possible existence of any undue lessening of competition among banks.

It is important to bear in mind that lessening of competition

and tendency toward monopoly are not the only factors which must be considered in connection with mergers and consolidations. There are factors which have an important bearing on the public interest, and which must be taken into account. The adequacy of a bank's capital structure, the competency of its management, its future earnings prospects, and the needs of the community must be considered as the Board discharges its functions under the law.

In the light of existing provisions of Federal law relative to bank mergers and consolidations, Congress has apparently decided that not all mergers and consolidations are objectionable. There may be many such transactions which, subject to supervisory approval are justified and desirable in the public interest. The Federal Reserve Board has demonstrated in the past few years that its interpretation of the laws governing mergers follows this reasoning rather closely. The basic fact to remember in a discussion of the supervisory functions of the Federal Reserve Board is that the primary field of supervision is with member State banks. *

E. The Comptroller of the Currency

Now let us examine the functions of the Comptroller of the Currency. The Comptroller of the Currency has primary supervision over the national banks in our banking structure.

* 5 PP 704 - 705

The approval of the Comptroller of the Currency is required in all cases in which a national bank consolidated or mergers with another national bank, consolidates or mergers with a State bank if the combined banks are to be operated under national charter, or purchases the assets and assumes the liabilities of a National or State bank.

This authority is contained in the following statutes:

1. Consolidation of two national banks - Section 1 of the act of November 7, 1918, as amended (title 12, USC, Sec. 33).
2. Consolidation of a national bank with a State bank under national charter - Section 3 of the act of November 7, 1918, as amended (Title 12 USC, Sec. 34a).
3. Mergers of national banks or State banks into national banks - section 4 of the act of November 7, 1918 as added by section 1, of the act of July 1, 1952 (title 12 USC., Sec. 34b).

Section 18 (e) of the Federal Deposit Insurance Act (Title 12, USC., Sec. 1828 (c) provides that the approval of the Comptroller is required for the purchase of assets and assumption of liabilities by a national bank of another insured bank, if the capital and surplus of the assuming bank will be less than the aggregate capital and surplus respectively of all the banks involved. This would appear to indicate that the approval of the comptroller is not required if the capital and surplus of the purchasing bank is to be increased to equal the aggregate capital and

surplus of the banks involved, but if that procedure is followed the Comptroller's approval is required for the necessary capital increase program (title 12, USC., Sec. 58).

In those cases where a national bank consolidates or merges with a State bank under a State charter, approval by the Comptroller is not required, Act of August 17, 1950. When a State bank purchases a national bank, this transaction is considered as a voluntary liquidation of the national bank and does not require approval of the Comptroller of the Currency. *

None of the laws cited above which specify that the approval of the Comptroller of the Currency shall be obtained before consolidations, mergers or purchases may be effected, state the factors which the Comptroller must consider before giving his approval. Section 4 of the Federal Deposit Insurance Act (title 12, USC., Sec. 1814) provides that when the Comptroller certifies to the F.D.I.C. that a new national bank has begun business, he will state that certain factors, enumerated in Section 6 of the act have been considered. These factors are; "The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent

* 6 PP 492 - 493

with the purposes of this act.

F. The Two-way Street Law

One other point should be covered when discussing regulation. This is sometimes called the two-way street law. Until 1918 there were no specific provisions for consolidations and mergers. At this time provisions were put in and through the years it was necessary, if a national bank wished to merge with a State bank that it should go into voluntary liquidation. This situation was changed by the Act of August 17, 1950. Under the law permitting consolidations under a national charter, the approval of the Comptroller of the Currency is required. This approval is not required for consolidation or mergers statewide under the two-way street law.

31 States have passed legislation providing for such consolidations and permitting State banks to consolidate with national banks under national charter without the approval of any State official. It is now possible in those States for a national bank to leave the national banking system by consolidation, merger or conversion, without the approval of the Comptroller of the Currency.

G. The Dissenting Shareholder

A change was enacted July 14, 1952, for mergers where a small bank is merged with or acquired by a very large bank, a relatively much larger bank. The change is that the dissenting shareholders of

the receiving institution, the large bank which is absorbing the smaller one, do not have the right to receive the value of their shares in cash.

A two-thirds vote of the shareholders of each bank is required.

H. The Federal Deposit Insurance Corporation

The third Federal regulatory agency is the Federal Deposit Insurance Corporation. The following statistics give an idea of the distribution of responsibility among the three Federal banking agencies in respect to the number of banks that they supervise and the respective sizes thereof.

As of December 31, 1954, there were 14,709 banks operating in the United States (continental and other areas). Of this number 13,541 were insured by the Corporation. The insured banks consisted of 13,323 commercial banks, holding 99 per cent of all the deposits of commercial banks and 218 mutual savings banks, holding 75 per cent of all the mutual savings banks deposits. Outside the protection of Federal deposit insurance were 497 commercial banks, 310 mutual savings banks, and 61 trust companies not regularly engaged in deposit banking. The 13,323 insured commercial banks had total liabilities, excluding capital accounts, in excess of \$186 billion. There were 4789 national banks with total liabilities excluding capital accounts, in excess of \$107 billion. 1867 State banks, members of the Federal Reserve, with such liabilities in excess of \$52 billion, and 6,667 State insured non-member banks with

such liabilities in excess of \$26 billion. *

Under present law, the Banking Act of 1935 as amended, the Federal Deposit Insurance Corporation is required to approve any merger, consolidation, or assumption transactions between insured banks only where the assuming or resulting bank is an insured State bank, which is not a member of the Federal Reserve System, and where either the aggregate capital stock or aggregate surplus of all banks participating in such transactions is decreased by reason of the transactions. The consent of the Corporation must also be obtained for any merger consolidation, or assumption transactions between an insured bank and a non-insured bank or other institution.

The authority to screen merger and acquisition transactions where there is a decrease in capital or surplus was first granted to the Corporation under the provision of the Act of 1950. This provision was written into the law as there had been in the prior years many instances of individuals acquiring a controlling stock interest in one or more banks, merging or consolidating such banks with a reduction of capital and distributing the aggregate amount of such reduction. This legislation has been effective in accomplishing its purpose.

I. The Justice Department

The fourth Federal agency that has a somewhat indirect interest in bank mergers and consolidations in the Justice Department.

The Justice Department may move against banks under Sherman Act Section 1. This power is somewhat cramped by Clayton Act, Section 7 failure to cover bank asset acquisitions. Mergers may meet Sherman Act standards yet fall before the Clayton Act's more stringent bans. Section 7 of the Clayton Act does not cover asset acquisition by banks. Section 7's asset acquisition portion covers only corporations "subject to the jurisdiction of the Federal Trade Commission". Further section 11 of the Clayton Act exempts banks from Federal Trade Commission jurisdiction by specifying that "authority to enforce compliance" with Section 7 "is hereby vested - in the Federal Reserve Board where applicable to banks, banking associations and trust companies." From the above it is seen that Section 7 is for practical purposes useless to cope with the recent trend of bank mergers, consolidations and sales.

J. The Effect of State Law

We have in this country 48 State banking authorities which exercise a degree of supervision over banks. To determine the degree exercised each State's laws would have to be examined and the degree of activity shown by the State agency. These State agencies must not be forgotten as changes in Federal law and regulations may infringe on areas that State authorities feel belong to them. Thus even in banking we can find ourselves involved in "States Rights" vs Federal authority.

Practically, and we have noted this before, State laws on branch banking have a great effect on mergers and consolidations.. Where no branches are allowed there is no merger problem, on the other hand when State-wide branch banking is permitted, you find one or two large banks covering the whole State. The bank of America with 543 domestic offices and deposits of 7.7 billion as of December 31, 1953 and Valley National Bank, Phoenix, Arizona with 35 offices and 316 million in deposits are examples. Both banks have had excellent growth in a fast growing area. Thus the problem of branch banking and to what extent should it be permitted is also a part of the merger picture.

6. Banking is a Unique Industry

A. Banking Services are different

Banks perform services radically different from industry or trade. The banking industry is not comparable with the strictly service industries. Banking is so closely related to the safety of the public's funds and to the well being of the general economy that public regulation and supervision was exercised long before the regulation of industry and trade. The more significant functions performed by banks help shape the structure of banking and are the reasons for public supervision.

B. Significant Functions

Banks are the chief depositors of funds for the general public, industry, and government. Banks are the chief mediums through which money payments are made within the American economy and between this country and foreign nations. Banks are the principal suppliers of short term credit to business and individuals. They are a main source for longer term funds. The supplying of such credit involves for the most part loaning other peoples funds.

Banks have become the chief instrument through which the supply of money is controlled by public authorities. This is done to give stability to prices and to minimize the fluctuation in business activity. This control is achieved under the direction of the Federal

Reserve System. Operations by the Federal Reserve Board and the several Federal Reserve Banks in the past three years has been an excellent example of this function. Credit was tighter in 1953 reducing the money supply and business activity slowed. The money supply was increased or credit made easier in 1954 and business activity started to rise. The money supply was reduced or credit tightened again in 1955 to try and slow business activity. This control is exercised by the several Federal Reserve Banks through their rediscount rate and the Federal Reserve Board by reserve requirements and open market operations.

There are many other very useful functions performed by the banks, personal and corporate trust services, collections, the sale and redemption of United States savings bonds and a great many other services. The above functions stand out in the sense that banks hold a primary position in their performance. They are essential to the healthy functioning of economic life in modern society. What would our economy be like with no bank deposits no payment by check and no lending banks? We can be assured that our present day mass production and distribution would be nearly impossible.

These foregoing functions are essential and have a direct bearing on the welfare of nearly all citizens. For these reasons banking already is highly supervised and controls have long since been exercised

over competition.

C. Banks Use Other Peoples Funds in a Capital Sense

Banks have one peculiarity from all other regulated industries or non-regulated industries. Banks use other peoples funds in a capital sense. The banks own funds from capital stocks and surplus are a small part of the funds used by the banks for loans and investments. All other industry raises the majority of its capital funds from the sale of stocks or bonds. They have generally more control over their funds than does the bank. The bank must be able to return the funds deposited with it on demand, (Commercial banks demand deposits). We have seen what happens when a great many depositors demand their money at one time. Banks had to close the doors and many people lost their money. Thus banks to a great degree are built on trust and confidence of the people. Other industries may lose sales or disfavor with the public but the end result failure is not as swift nor are as many people affected detrimentally.

D. Banks are not Free to Price Credit

Banks are not able to price their commodity, credit, as other industry. In our so called closely regulated industry, Railroads, Utilities, and Airlines the companies can apply for rate increases as costs go up. When increased costs are proved the rates are increased. The banker faces rising costs just like anyone else but is not able to go to a regulatory

agency and ask for an increase in interest rates. Government policy has been and still is dedicated to a relatively low interest rate to keep the cost of servicing the debt down and to provide cheap money to industry and the consumer. This may be good from the countries economic standpoint but places the banking industry in a cost squeeze. Bankers feel and rightly so, that a reasonable profit should be made on investment. In our profit economy, an industry which cannot make a reasonable profit soon falls by the wayside. Our banking industry must be kept strong and dynamic to service a growth economy.

E. The Dual Banking System Creates more Regulatory Agencies

There is one other major feature about the banking industry which seems to set it apart. Non-regulated industry has only to comply with the general laws covering their operation. Regulated industries usually have two agencies for supervision, the designated Federal agency and its State counter-part. Banking generally is supervised by three Federal agencies, the Federal Reserve Board for member State chartered banks, the Comptroller of the Currency for nationally chartered banks and the Federal Deposit Insurance Corporation for other insured banks and the State banking authorities. Here we find one of the most competitive regulated industries having the most supervision.

Banking is indeed different from other industry. The size and type of loans banks can make is limited; the type of investments

undertaken is regulated; the reserve held against deposits is governed by regulatory authority; limits are placed on dividends; examinations by public authority are made on a regular basis. It is significant that throughout all these laws and supervisory controls, there runs one objective - that banks be safe, sound, and capable of meeting the needs of the community for essential banking service.

We should note that the supervisory authorities place certain definite limits on the competitive process even though our anti-trust laws which apply to banks, foster competition. The banking business cannot be entered by anyone who has the necessary capital and who desires to go into it. Existing banks are not free to expand as they desire, new branches must be approved by supervisory authorities. Supervisory approval is usually required for an increase in capital stock. Freedom of entry is generally absent in banking.

The existence of these factors points up the differences between banking and trade. These differences assume great significance when attempting to apply identical criteria to bank mergers which are applicable to merger in industry and trade.

7. Proposed Regulatory Changes

A. Introduction

We have examined some of the past history growth trends in the banking field, and the present merger picture. We have discussed the position of banking in the business community and also its relationship to the individual. Mergers and consolidations have undoubtedly increased in the past few years and holding company activity has grown.

B. Holding Companies and Legislative Proposals

Holding companies have not been discussed as these actions are not strictly mergers or consolidations. Banks held by a holding company continue under the same name and in the same location. There is no reduction in the number of banks or offices. Control of the banks by the holding company is exercised through stock ownership. The ownership of the stock allows the holding company to elect directors of the bank. This chain of control permits the holding company to establish the policies and procedures under which the bank operates.

There have been more bills filed in Congress on the regulation of bank holding companies than have been filed on mergers and consolidations. These bills should be examined to some extent to give a true picture on what is taking place in the entire field of financial concentration in the banking industry.

Two bills were filed in the 1st session of the 84th Congress

S. 2577, July 19, 1955 and S. 880, February 1, 1955. There were three bills filed in the house at the same session of Congress, H. R. 685, January 5, 1955, H. R. 6227, June 15, 1955 and H. R. 2674, June 20, 1955. All of these bills are aimed at further control of bank holding companies.

The existing law is concerned primarily with the financial soundness and internal operations of bank holding companies. It has very limited application because it applies only, (1) if one bank in the holding company group is a member of the Federal Reserve System, and (2) if the holding company wishes to vote the stock it owns in such a bank. Under the law, as of December 31, 1954, only 18 bank holding company groups with assets of \$10.8 billion were subject to regulation by the Federal Reserve Board.

There are three major inadequacies in the present law of which independent bankers have complained; principally only a limited number of bank holding companies are covered; there is no control of future expansion; and there is no limitation on the acquisition of non-banking investments.

S. 2577 is designed to remedy the above deficiencies. It is a compromise based on three bills considered by the Senate Banking and Currency Committee. These were H. R. 6227, which was passed by the house, S. 880, the companion bill to H. R. 6227, and a previous

bill S. 2350.

Thus it can be seen that much effort has gone into legislation for additional controls in the holding company phase of banking concentration. It is anticipated that some additional restrictions will be placed on bank holding companies at this session of Congress.

C. Merger Legislative Proposals

There has been greater activity in the house on bank mergers and consolidations. The house has two bills filed on the subject and has held hearings on H. R. 5948. The Senate has made a study of the anti-trust laws which included those pertaining to banking. There may be a bill filed in the second session of the 84th Congress now in session. Action on such a bill probably would not be taken as other legislation of greater political importance must be disposed of and an election year session tends to be shorter.

H. R. 5948 is an act "to amend the Clayton Act by prohibiting the acquisition of assets of other banks, banking associations, or trust companies when the effect may be substantially to lessen competition, or to tend to create a monopoly." Hearing held July 5 and 6, 1955. H. R. 2115 is a bill to amend the Federal Deposit Insurance Act to provide safeguards against mergers and consolidations of banks which may lessen competition unduly or tend unduly to create a monopoly in the field of banking. H. R. 6405 is a bill to amend the Federal Deposit

Insurance Act to provide safeguards against mergers and consolidations of banks where the effect may be substantially to lessen competition or to tend to create a monopoly.

The two bills cited above are designed to amend sections 18 (c) of the Federal Deposit Insurance Act. Under section 18 (c) of the Federal Deposit Insurance Act the Federal bank supervisory agencies are now required to pass in advance upon mergers and consolidations of banks where they result in a diminution of capital or surplus, that is, where the capital or surplus of the resulting institution will be less than the aggregate capital stock or aggregate surplus, respectively, of the merging banks.

The significance of H. R. 5948 generally is this. It is an amendment to one of the two basic anti-trust laws. In comparison H. R. 2115 and H. R. 6405 amend the Federal Deposit Insurance Act or keep additional restrictions on mergers and consolidations within the general banking code of laws. Here we see two different approaches to the problem. If the Clayton Act is amended as suggested in H. R. 5948, the Federal Reserve Board would as stated in section 11 of that Act become the enforcing agency. On the other hand by amending section 18 (c) the same general division of authority would exist as is presently the case.

A bill has just been filed in the Senate by Senator John Sparkman

of Alabama to regulate bank mergers. This bill was filed on the 2nd of March 1956 and can be summarized briefly as a copy had not been obtained at this writing. The bill goes further than bank mergers pertaining to other anti-trust matters as well.

Basically the measure has three major provisions and for the first time brings the Federal Trade Commission into the picture. It would: (1) allow the U. S. Department of Justice and the U. S. Federal Trade Commission to stop banks from acquiring the assets of other banks directly or indirectly if the acquisition would lessen competition, (2) require that notice of merger plans be given 90 days in advance of consummation to the U. S. Attorney General and to the Federal Trade Commission if either party to the proposed merger had assets of one million or more, and (3) require corporations proposing to merge also to report all data concerning the merger to the Department of Justice and to the Federal Trade Commission.

8. Discussion of Proposed Regulatory Changes

A. Introduction

We have examined trends in banking and the extent of the recent mergers and consolidations. Various legislative proposals have been cited which affect the problem. These proposals will now be examined to see what effect they will have on banks if adopted.

B. Holding Companies

The various bank holding company bills are designed to accomplish two major purposes. These are: 1. Control of expansion and 2. Limiting bank holding companies to banking assets with some exceptions. There is a feeling that bank holding companies should not hold assets of non-banking companies. Such an arrangement might lead to unwise loans to the non-banking companies which in turn would weaken the individual banks and thus the holding company.

Control of expansion must be considered in two lights.

One approach suggests that bank holding companies are evil force and that any further growth should be limited. This approach would in the long run probably kill the holding companies as a business which is prohibited from expanding to meet the needs of its customers will become an economic casualty. This seems to be an indirect approach to the problem and it would be much better to ban bank holding companies entirely than to suffocate them by regulation.

The second approach to regulation has the philosophy that a legitimate type of business might be regulated in the public interest but ought not to be eliminated. In order to try and satisfy all regulatory bodies the control of expansion proposed by this group starts with the State regulatory authorities. If the State regulatory authorities file in opposition to a proposed expansion by a bank holding company with the Federal Reserve Board, the Board is required to hold a public hearing. After the hearing the Federal Reserve Board is required to approve or disapprove the acquisition by formal order. Any party who feels aggrieved by the order will have the right to a judicial review of the order by an appropriate Federal Court of Appeals. This proposal affords opportunity to develop the merits of each case in open hearing and also recourse to court review.

The reader should by now realize that the problem of merger and consolidation is not the only one facing the banking industry. Concentration through the holding company is also considered a problem. The best information obtainable indicates action by Congress will be taken on a bank holding company bill in the present session of Congress.**

C. Two Basic Approaches

Bank merger and consolidation legislation has two broad

** President Eisenhower signed legislation for federal regulation of bank holding companies on May 9, 1956. The president feels the bill fell short of the needs in that field.

approaches. These are (1) to amend the Clayton Act by prohibiting the acquisition of assets of other banks by banks, banking associations, or trust companies when the effect may be substantially to lessen competition, or to tend to create a monopoly, or (2) to amend the Federal Deposit Insurance Corporation Act by amending section 18 (c) to give the Federal supervisory authorities greater power and wider latitude in approving or disapproving bank mergers or consolidations. Thus we can see two philosophies of regulation which will be brought out in greater detail in the following discussion.

D. Position of the Federal Agencies

First let us examine the position of the various regulatory bodies toward proposed legislation. These positions will be summarized and for complete detail the Congressional hearings should be read.

1. The Federal Trade Commission

The Federal Trade Commission favors the enactment of H. R. 5948. The commission feels that a substantial lessening of competition or tendency to monopoly resulting from the acquisition by one corporation of stock in another or from the acquisition of the assets of one corporation by another would seem to be a matter of form rather than of substance. Without provision for asset acquisition attempts to enforce Section 7 of the Clayton Act in the banking field may well encounter the same frustration which the Federal Trade Commission encountered

before the recent amendment giving it jurisdiction of asset as well as stock acquisition.

Stock may be used to acquire assets before the administrative process preliminary to a cease and desist order can be completed. An excellent example of this procedure is *Arrow-Hart and Hageman Electric Company v. Federal Trade Commission* (291 U.S. 587). In this case Mr. Justice Stone stated in part: "It is now declared that, however gross the violation of the Clayton Act, however flagrant the flouting of the Commission's authority, the celerity of the offender, in ridding itself of the stock before the Commission could complete its hearings and make an order restoring the independence of the competitors, leaves the Commission powerless to act against the merged corporations."

The loophole which this leaves in section 7 when that section is limited to stock acquisitions is readily apparent. This loophole was not closed by the decision of the United States Court of Appeals for the Ninth Circuit in *Board of Governors of Federal Reserve System v. Transamerica Corp., et al* (184F. 2d 311). In this case the Board was able to obtain a restraining order preventing the use of stock to acquire assets pursuant to a publicly announced plan to merge during the pendency of proceedings by the Board under a complaint looking toward a divestiture of stock. The most important fact developed is that a stock may be acquired and used to acquire assets before the

agency concerned is able to obtain sufficient information upon which to issue a complaint.

The Federal Trade Commission states it both sympathizes with and approves of H. R. 5948. The Commission being primarily concerned with anti-trust regulation under the Clayton Act expresses no opinion on changes to the Federal Deposit Insurance Act.

2. The Justice Department

The Department of Justice through its Anti-trust Division has a great interest in any legislation dealing with anti-monopoly practices. The Justice Department may move against banks under Sherman Act, Section 1, but its efforts are cramped by Clayton Act, Section 7's failure to cover bank asset acquisitions. Mergers may meet Sherman Act standards yet fall before the Clayton Act's more stringent bans.

The Department of Justice seems to prefer H. R. 5948 with certain amendments suggested by the Federal Reserve Board. These amendments will be considered in greater detail when examining the Federal Reserve Board position. Generally, these amendments require advance approval of bank asset or stock acquisitions by the appropriate banking agency. The "appropriate agency" would be authorized in its discretion to request the views of the Attorney General in any case in which it felt that there is a substantial question as to whether the merger or consolidation would bring about those anti-

competitive effects the Clayton Act seeks to avoid. If the Attorney General deems the proposed merger illegal, then bank agency approval would be barred. This would amount to a veto where the matter was submitted to the Attorney General, if the agency believed there was a serious question involved. If an agency did not submit a proposed merger to the Attorney General, it would leave the Attorney General's hands free to move in subsequently.

H. R. 6405 now pending before the Banking and Currency Committee has almost the same import as the procedure outlined above. There are two major differences in H. R. 6405. There is no provision in H. R. 6405 for referral to the Attorney General nor is the right of the Justice Department to proceed specified. For these two reasons the Justice Department prefers H. R. 5948 rather than amending section 18(c) of the FDIC Act.

The Justice Department would be able to work with H. R. 5948 as it now stands. Unless the Attorney General has been previously consulted by the appropriate banking agency - and indicated his approval - he could still proceed under section 7 of the Clayton Act against any bank merger. This approach preserves the integrity of each regulatory agency. The Attorney General, at the outset at least, is put in the position of advising each bank agency - not intervening directly against banks themselves. The goals of effective and equitable enforcement are served

since a uniform and coordinated supervision of section 7 is insured.

Generally speaking Justice feels that it is proper to apply to bank mergers the same criteria with respect to competitive factors that are applicable to mergers in industry and trade. However, each industry is different and banks should not stand in a preferred position, but should have attention paid to the peculiar nature of their business when defining the line of commerce.

3. The Federal Reserve Board

The Federal Reserve Board favors legislation to more strictly control bank mergers and consolidations. In commenting on H. R. 5948 the Board feels that for the purpose of making the law more practical and effective, it would be desirable to make two changes in the proposal.

The first change related to the enforcement authority of the Board of Governors. Under the present law, the enforcement of section 7 of the Clayton Act where applicable to banks is vested in the Board. In addition, the Attorney General is given a concurrent enforcement authority to direct the United States district attorneys to bring proceedings in the courts to prevent and restrain any violation of the law.

The pending bill H. R. 5948 would greatly enlarge the scope of the Board's responsibilities under section 7 of the Clayton Act, because it would extend that section to cover acquisitions of bank assets, that is,

bank mergers and consolidations, as well as acquisition of stock. It would be the Boards responsibility to consider the competition and monopolistic aspects of all bank mergers, even though under other provisions of law most of the mergers would have previously, been considered by the other Federal bank supervisory agencies, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

The principal responsibilities and functions of the Federal Reserve system lie in the fields of monetary and credit regulation and bank supervision. They are quite different in character from the prosecuting and adjudicatory functions involved in the administration of the Federal anti-trust laws which apply broadly to all types of corporations. Enforcement of the anti-trust laws and administrative supervision of banks fall into different spheres of governmental operation.

Thus the Board feels that enforcement of the Clayton Act as to banks should be in the Attorney General.

The second change which the Federal Reserve Board believes should be made, to make the objectives of the bill more effectively accomplished, is the addition of a requirement for the advance approval by a Government agency in the case of all bank mergers and consolidation.

The Comptroller of the Currency has authority to approve mergers involving national banks, but due to the limited nature of the

authority in section 18(c) of the Federal Deposit Insurance Act many bank mergers do not have to be approved by any Federal agency. In the past 5 years there have been approximately 162 cases of mergers and consolidations involving State member banks. Exactly half of these or 81 were subject to Board approval and the other half were not.

This proposal seems to take some authority from the State banking authorities and to infringe to some extent on the so-called "States Rights" doctrine. It is a logical approach if additional legislation is required. Approval is now required under 18 (c) when the merger or consolidation results in a diminution of capital or surplus. In any case State banking authorities have to approve or the case does not come to a Federal Banking agency.

The Board believes it would be desirable to extend this authority through the present Federal Bank Supervisory agencies. This means advance approval by the Comptroller of the Currency where the resulting institution will be a national bank by the Board where the resulting institution will be a State member bank of the Federal Reserve System and by the FDIC where the resulting institution will be a non-member insured bank. This proposal does not cover the small number of banks which are not subject to Federal jurisdiction.

In considering any such merger or consolidation the bank

supervisory agency should take into account such considerations as the adequacy of the bank's capital, the competency of the management, the needs of the community, and other similar factors. After these factors have been considered, the Board believes that in any case in which the appropriate agency should feel that there is a substantial question as to whether a proposed merger or consolidation would result in an undue lessening of competition or tendency to monopoly, the agency should be authorized in its discretion to request the views of the Attorney General on this point. When the Attorney General's views are unfavorable, the bank supervisory agency should be precluded from giving its approval to the transaction.

The Federal Reserve Board thinks we should have stricter mergers laws but do not desire enforcement authority for these laws. They feel the present division of authority between the three Federal bank supervisory agencies should be maintained with each in its respective sphere giving advance approval to proposed mergers and consolidations.

4. The Comptroller of the Currency

The Comptroller of the Currency has expressed his views on the several proposals to make the merger of banks subject to more stringent controls. This Federal agency is in accord with the general purpose of H. R. 5948. The Comptroller agrees to the principal that

the acquisition of one bank by another through purchase, merger, or consolidation should not be permitted if the effect of the acquisition may be substantially to lessen competition. It is no less important to have competition in banking, when this can be done soundly, as it is in other fields of commerce and industry.

The Comptroller has a different approach to the problem in that, he does not feel an amendment to the Clayton Act is the answer. A more effective administration of the law and fulfillment of the policy of the Congress with respect to such an important matter as control over mergers of banks can best be achieved by use of the banking statutes, and the experience and technical knowledge of the bank supervisory agencies. The Comptroller would leave the basic anti-trust laws as they are and control mergers and consolidations by stricter banking laws.

The adoption of H. R. 6405 would achieve the same result through the use of the banking statutes, and place the administrative responsibilities upon the bank supervisory agencies. The bill makes all bank mergers subject to the approval of the appropriate Federal banking agency, and provides that the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall not consent to mergers of banks coming within their respective jurisdictions if the effect may be substantially to lessen competition, or to tend to create a monopoly.

H. R. 6405 maintains the division of authority between the three Federal bank supervisory authorities, and each has sole and exclusive authority within its field of authority.

The enactment of H. R. 6405 would remove the two shortcomings which have been said to exist in the present law. First, there would no longer be the possibility that bank mergers could be effected without review by any Federal agency. Some of the largest bank mergers have been accomplished in such a way that no Federal approval was required and under this bill this would no longer be possible.

Second, clear statutory direction would be substituted for what now exists only by implication - the duty of the Federal banking agencies to consider whether, in any section of the country, the effect of a merger may be substantially to lessen competition, or to tend to create a monopoly. The bill says that the agency shall not consent to the merger where such a situation exists.

An absolute prohibition against merger where it tends to lessen competition or create a monopoly is too strong. The nature of the banking business, its status as a highly regulated industry, and its intimate relationship to the economic fortunes of the communities served, require an exception to the general prohibition. Instances do occur from time to time where the necessity for merger to avoid the possibility or probability of ultimate failure must outweigh the lessening of competition.

H. R. 6405 would provide specifically, for the first time, that in considering a merger the supervisory agency should consider the factors enumerated in section 6 of the Federal Deposit Insurance Act. The applicable factors from this section are:

- (1) the financial history and condition of the bank
- (2) the adequacy of capital structure
- (3) future earnings prospects
- (4) the general character of management
- (5) the convenience and needs of the community to be served.

The Comptroller of the Currency has several objections to H. R. 5948. He does not believe that specific reference to banks in section 7 of the Clayton Act is a desirable method of handling the problem. Federal regulation of banking has always been considered to be a specialized field, and has always been handled by what are substantially a unified group of laws - the National Bank Act, the Federal Reserve Act, and the Federal Deposit Insurance Act. New regulatory laws should be made a part of these statutes.

H. R. 5948 as presently written, because of the provisions of section 11 of the Clayton Act, would vest enforcement authority in the Board of Governors of the Federal Reserve System. Such a law would unwarrantedly and unnecessarily unbalance the dividing authority which presently exists between the three Federal supervisory agencies.

This unbalance of authority as it applies to mergers and consolidations would not be in the best interests of the agencies or the banking industry.

The Comptroller of the Currency recommends a single amendment to H. R. 6405 to permit the bank supervisory agencies to approve mergers, despite the competitive situation, in cases where such action is necessary to avoid the possibility or probability of ultimate failure. This amendment corrects an objection previously mentioned and gives supervisory authorities a lever with which to keep the banking structure strong and sound even if competition is lessened in so doing.

5. The Federal Deposit Insurance Corporation

The Federal Deposit Insurance Corporation has expressed its views on the current proposals to control mergers and consolidations. The FDIC generally agrees merger and consolidation laws should be strengthened.

The primary function and responsibility of the FDIC is to see that the financial institution is strong as possible so that there be no losses to depositors. With this primary function in mind, the screening of merger, consolidation and acquisition transactions, by the several Federal agencies should continue using the factors presently existing in the Federal Deposit Insurance Act.

It would not be in the best public interest if the factors

contained in the Clayton Act were superimposed as additional considerations. The tests provided in the present law are sufficient to protect the public interest adequately. We would not hazard the uncertainty of placing restrictions on the Corporation which might prevent it, in times of emergency, from rendering full and complete aid to insured banks in financial distress. We should render aid in a manner best calculated to protect the interests of the depositors of such distressed banks. It should be noted that the Federal Deposit Insurance Act has never been tested by acute financial stress in the banking field since it was passed. The Corporation does not want to have its hands tied when it feels a merger is in the best interest of a sound banking structure.

The Federal Deposit Insurance Corporation has proposed for consideration legislation to amend section 18 (c) of the Federal Deposit Insurance Act to provide; "that no insured bank shall merge, consolidate, acquire the assets, or assume the deposit liabilities of any other bank unless the Comptroller of the Currency shall have given prior consent thereto, if the assuming or the resulting bank be a national bank or a district bank or unless the Board of Governors of the Federal Reserve System shall have given prior written consent, if the assuming or resulting bank is a State member bank - except a district bank - or unless the Corporation shall have given prior written consent if the

assuming or resulting bank is to be a non-member insured bank - except a district bank." The act should further provide that in giving consideration to such approval, each of the several agencies should take into consideration the factor enumerated in section 6 of the Federal Deposit Insurance Act. These factors have been listed when discussing the Comptroller of the Currency in this chapter.

Actually the Corporation is endorsing the principles established in H. R. 2115. As a further point this bill uses the term "unduly" rather than "substantially". This phraseology is not as restrictive and the Corporation feels it would have greater latitude in maintaining a sound banking structure.

E. Summary of Positions

We have now examined the four Federal agencies primarily concerned with bank mergers and consolidations. This examination indicates each agency is in favor of legislation, the general purpose of which, is to make mergers and consolidations subject to more stringent controls. There is no uniform agreement as to how this should be accomplished. The basic approach is amendment of section 7 of the Clayton Act or amendment of the Federal Deposit Insurance Act. When following these basic concepts, each agency has modifications which it wishes incorporated.

F. National Association of Supervisors of State Banks

The National Association of Supervisors of State Banks feels that proposed legislation constitutes an unwarranted encroachment on the prerogatives of the States. The question of mergers is not a new condition which has grown up in the present period. In the late twenties and early thirties it was vital to the supervisors to have the opportunity to effect mergers in order to save failing institutions. There were many consolidations among our banking institutions in a race for bigness but no outcry was made about the trend. The present trend is a return to the cycle of 30 years ago, and will satisfactorily adjust itself in due time without any additional Federal regulation. State supervisors may be expected to be more familiar with the condition of State chartered banking institutions and the problems facing them. These supervisors would be in closer touch with the public need for bank services and credit. The association states, "we do not want our jurisdiction impaired and we sincerely hope on behalf of our membership that much more study will be given to this entire subject, before the Congress takes a step which will strike at the dual banking system and the doctrine of States Rights". It is very plain the State Bank Supervisory Association does not favor any of the proposed legislation.

G. The Independent Bankers Association

The Independent Bankers Association as represented by

Mr. B. H. Ryan, has some interesting comments on the merger problem. Mergers by the very nature of the word are meant to lessen competition. The smaller bankers feel these mergers are just being carried on to make one bank bigger than the other. One bank takes over another and that particular bank is displaced as far as being No. 1 in deposits, in size of the country, so that their competitor goes ahead and merges with somebody else just to be bigger. There is no benefit to the public by doing this, we have the same number of banks with the same number of branches, the only thing is that we now have one head office instead of two. In doing this they have a better control of money and credit. The Independent Bankers Association seems to feel that any legislation to restrict mergers and consolidations, if enforcement is in the hands of the Justice Department, should be passed.

H. National Farmers Union

Mr. Angus McDonald, Assistant Legislative Secretary, National Farmers Union testified before the House Anti-trust Subcommittee, Sub-committee No. 5. He was appearing to support H. R. 5948. The United States is the only country left where most communities are served by home owned and home managed banks. These banks are aware of and responsive to the need of the people in their area. The farmer, the businessman, the merchant in thousands of communities throughout the United States depend upon financial

institutions which are responsive to their needs. Sound loans cannot be made when those arranging the loan have no awareness or understanding of the problems of local agriculture and local business. "We do not believe that a monopolistic banking system controlled by a few is compatible with the functioning of a system of free competition. We believe, further more that if the credit of the country, which is the life blood of business and of agriculture, is controlled by a few financial groups, that ultimately our democratic institutions will be made less vigorous and responsive to the peoples needs". As can be seen the National Farmers Union is in favor of H. R. 5948.

I. New York County Lawyers Association

The New York County Lawyer Association, committee on Federal Legislation recommends disapproval of H. R. 5948. Banking today is not subject to unlimited competition but is carefully regulated by both the State and Federal Governments. It has been in the public interest to eliminate unsound and destructive competition among banks and to promote sound and adequate banking practices and facilities. This organization believes that competition is not the sole criteria to be used in judging the merits of a merger. They also make one other very sound point in their recommendation against H. R. 5948. Once two banks have merged it is virtually impossible to separate them so that in most instances it would be impractical for a court

to issue a decree requiring a merged bank to divest itself of the assets acquired by virtue of the merger. Confidence on the part of the public must be enjoyed by a bank. A suit to split a merged institution might have the effect of lessening competition rather than increasing it.

J. New York Chamber of Commerce

The New York Chamber of Commerce has studied the bank merger problem and made comments. Some of the more recent and largest mergers have taken place in the New York City area so it is not surprising that an organization of this type has examined the situation.

This organization feels that amending section 7 of the Clayton Act is the wrong approach to this important and difficult question. Competition among banks is good but when the supervisory authorities are passing on a bank merger other factors must be considered which are equally important. If the anti-trust laws are used as the sole criteria for bank mergers, then the enforcing authorities, in this case the Board of Governors of the Federal Reserve System would not be able to exercise any real judgment as to whether or not a particular bank merger was in the public interest.

Competition that may be required of industrial and commercial corporations is almost unlimited. If the competition is so vigorous as to drive out the marginal corporations, the losers are the stockholders

who have exercised their right to take this risk, balanced against a chance for substantial profits. This course of action is not the best for banks. Banks do business largely on the money that they receive from their depositors. These depositors have placed their money with them for safekeeping, and with no idea of any profit or commercial gain. In this country we have had a strong public policy in favor of encouraging people to deposit their money in banks. Public confidence in money and credit is involved. A policy based entirely on competition might lead to excesses typical of the twenties which was climaxed by the bank holiday in 1933.

Since 1932 banks have generally been prohibited from paying interest on demand deposits, and have been limited in the amount of interest that they can pay on time deposits. The principal reason for these restrictions is to prevent banks from competing for deposits by offering higher and higher interest rates. If unbridled competition were the correct rule for banks, then they would be encouraged to compete for deposits exactly as business and commercial corporations are required by the anti-trust laws to compete for supplies and raw materials.

Competition to a certain degree is good for the banking industry, but an overbanked condition can be a danger, and is one in which public authorities have a great concern. We have almost the

exact opposite in the case of the ordinary business enterprise. The State does not concern itself whether there are too many department stores or gasoline stations at one intersection, but we have placed restrictions on new banks and branches.

In any merger or consolidation the element of competition is a factor that should be studied and weighed by the supervisory banking authorities.

It is significant that the number of commercial banks has been cut almost in half between the end of World War I and the present time, however the country's banking system has never been healthier than it is today.

Amendment of the Clayton Act to make competition the sole test of the desirability of a bank merger is not in the public interest. These comments did not cover amendments to the Federal Deposit Insurance Corporation Act but from the tenor of thought expressed the conclusion can be drawn that if changes in the law are necessary this broader base would be a better solution to the problem.

K. Chamber of Commerce of the United States

The Chamber of Commerce of the United States is opposed to changes in the Clayton Act, American banking has been governed by the principle of "free banking" in which banks are supervised and chartered by the Federal and State Governments. Under the dual

system banking competition has flourished. The banking system as we now know it, represents a long period of carefully considered development. Interjecting the Federal Reserve Board into all types of bank mergers and consolidations would be an entering wedge in the dual system under which our banks have operated.

American banks operating under this dual free enterprise system have fostered our high standard of living. Banks have developed into a higher competitive instrumentality of financing both at the State and National levels. We should move very slowly in changing this pattern, if indeed we should change it at all.

L. The American Bankers Association

The American Bankers Association is a representative organization of American banking. The views of this association on the merger and consolidation movement should be interesting. The association feels the various proposals seek the same general objective and raise two fundamental questions. The first question is whether any change in existing law is in fact warranted. The second question is what type of change should be made in existing law, if any change is in fact warranted.

Over the past 30 years the banking business has undergone a very basic change. Along with the development of mass production in industry, equivalent mechanization in agriculture, and mass distribution

and selling, the banking industry has slowly witnessed the elimination of units devoted to serving a limited number of clients. Wholesale banking has gradually been forced to give way to retail banking. Mass production and selling brought sharp change in distribution of credit. The personal consumer and installment loan has become a major factor in the distribution of credit. The term loan to business has become increasingly available.

Banking institutions today are meeting constant and vigorous competition from other elements of the financial industry, some of which are actively sponsored by the Federal Government. In the competition for savings, mutual savings banks, insurance companies, savings and loan associations, and credit unions are strong competitors of the commercial banking industry. These and other types of financial institutions also provide strong competition in various types of lending.

It is difficult to understand the apparent concern with respect to the number or type of mergers in late years in the banking industry. It would seem that the record does not indicate a lessening of competition or tendency to monopoly. Credit is not less available, the terms and conditions of credit are not less competitive, depositors, borrowers or those seeking trust facilities do not find them less available. The mergers of several large or small banks out of 70 institutions in a given city or area does not amount to a substantial lessening of competition or even a

lessening of competition, (NYC).

Data showing the distribution by size as between acquiring and acquired banks has not been completely developed. Data available seems to indicate that the growth in size of banks by internal or external means has been reflected as much among rural and suburban banks as it has among the large urban banks. It should be noted that the press gives much more publicity to mergers of large banks than to small rural banks. This fact tends to distort the merger and consolidation picture in the minds of the public.

The growth in size of banks throughout the Nation has reflected and has been part of the economic growth of the country. The pattern that growth has taken is not much different from that of other industries over the last twenty years.

The American Bankers Association feels that there is no need for further regulations in the merger and consolidation field. If Congress should decide that some form of legislation in this area is desirable, amendment of the Clayton Act would not be appropriate. Any change, if any is made, should be an amendment to the Federal Deposit Insurance Corporation Act.

It does not seem feasible to vest the entire authority and administration in one bank supervisory authority as amendment to the Clayton Act would do. The same general area of responsibility should

be maintained among the three Federal supervisory agencies. Each agency is familiar with the problems within its area. This experience should not be discarded as it is a valuable asset which cannot be transferred by a provision of law. It is doubtful whether the concentration and centralization of authority in one such agency would produce as satisfactory and equitable administration as the present division of responsibility.

Action taken by bank supervisory authority with respect to mergers and consolidation should as a matter of public policy, enjoy finality. This is in accord with the policy adopted by Congress in the Clayton Act, under which merger and consolidation transactions undertaken by industry subject to the jurisdiction of the agencies designated in that act are immune from governmental attack if consummated after approval by the designated agency. A law which would allow the Department of Justice to attack such a transaction is hardly reasonable. The ability of a bank to obtain expeditious, final approval of a merger, consolidation, or an acquisition of assets cannot be over-emphasized.

The association feels that any legislation along these lines should call for prior written consent from the Federal agency presently established for supervision. Each agency should be able to grant final authority in this respect. When the agency concerned makes its evaluation of a request, consideration should be given to the factors

enumerated in section 6 of the Federal Deposit Insurance Act. This would place the determination on a much broader base than merely one of competition.

If the Congress considers it desirable to provide in addition expressly for a competition and monopoly act test with respect to bank mergers and consolidation generally, this could be done by amendment to the Federal Deposit Insurance Act.

The American Bankers Association makes a strong case for no additional legislation. This is a natural reaction as the managers of an industry do not desire additional controls for the industry.

M. Summary

A fairly wide cross section of ideas on the legislative proposals has been presented. The Federal agencies believe more regulation is essential but are not agreed on the method to use. Their stand follows the pattern of governmental regulation in that merger and monopoly must be fought and the little fellow protected. The independent bankers want more regulation and so do the farmers. Generally other organizations do not feel as strongly on the subject.

Industrial, commercial and financial growth in the country will show changing patterns as conditions change. These changes may be good or bad only time will tell. Legislation will slow a trend but will not stop it entirely for if the economic factors behind the change

are strong enough, change will be forced. We have a fear of bigness in one respect which seems to be that of bigness itself, yet we like and use the products produced by it every day.

9. Conclusions and Recommendations

A. Wide-spread Views

The several phases of the bank merger movement have been examined as well as proposals for strengthening the anti-trust and merger laws. The wide range of problems which are inherent in the merger and consolidation movement create a number of different views from within the industry and the regulatory agencies. No industry wants regulation when it is prosperous and the banking industry has had several good years. Government agencies are required by law and the philosophy of our economic system to see that competition is maintained free from monopoly. Has competition been unduly lessened by the merger movement?

B. Service and Facilities

The branch and merger movement is still going strong. Indications are that mergers will again exceed 200 in 1956. The movement is not yet over and it looks as though it is spreading more and more from the big cities to outlying areas. Service facilities for the public are on the increase with a small decrease in the number of individual banks. The merger movement has not prevented the banking industry from keeping pace with population growth in customer accessibility. The banking industry is cognizant of the need for taking its products (credit and service) to the masses. The merger movement has in

several respects aided this effort and certainly has not retarded it.

We can conclude that bank services and facilities are available to more people today than ever before. This is a result of more competition rather than a tendency toward monopoly.

C. Mergers must be Studied Individually

The merger movement does not follow a standard pattern. Banks of all sizes have consolidated, city banks and country banks have merged, National banks with State banks and State banks with National banks. Growth banks have grown larger by consolidation and banks which have been standing still have used mergers to get out of the rut and increase deposits. The reason for a merger may fall into a general class and the effect on competition may seem apparent which leads many people into the mistake of trying to generalize on the subject. We must conclude that each merger must be studied individually before a conclusion can be reached as to its effect on competition.

D. Costs must be Examined for Several Years

The consolidations which have taken place since 1950 have not had enough time to give a representative picture on earnings. Mergers cost money as many absorbing banks have found out. These costs may be of a long term nature such as higher salaries and pension costs. Determining the cost of a branch to see if it is making money

costs money. The closer the integration with the main office the harder it is to segregate the costs. The personnel problem usually gives the most trouble. At the outset more people are needed and overtime is required. This condition changes to a surplus of people as the integration progresses. Turnover may take care of the surplus employees, but turnover is not so rapid with officers. What has saved the situation more than once - and this may help explain why mergers flourish in booms - has been an expansion of business that has absorbed personnel. We may conclude that the costs of mergers and operating costs must be examined for several years before reliable data will emerge.

E. Profit Motives

Mergers are created by the profit motive. In our American economy profits are the judge of success or failure. If banks made less money due to mergers, there would be no mergers. The banking industry is highly competitive, though usually profitable with adequate management. Banking management must try to increase profits and maintain a sound bank at the same time. The merger trend is one expression of the profit motive.

F. Local Concentration and the National Total

So-called "concentration" in banking not only shows no general increase in the post-war period, but the degree of concentration

is so small as to insure vigorous competition across the nation. The per cent of deposits held by the 100 largest banks were 57.6% 1940. 48.3% 1945. 46.2% 1950 and 46.6% 1954. This same trend is true for the 25 largest or 5 largest banks. It should be noted that a substantial amount of the deposits of the 25 largest banks are placed with them by foreign banks, or represent re-deposits of other domestic banks. We may conclude that while deposits may be held by fewer banks in the metropolitan financial areas, the percentage of these deposits to total deposits has been growing smaller. Thus we find that local concentration may have increased but this concentration is a smaller part of the national total.

G. Credit Extension

Credit facilities are more readily available to borrowers, large or small, than ever before. Competition between banking institutions has increased rather than diminished in recent years, and has been supplemented by increasing activities of other lending agencies. Banks, in order to meet the competition, have been granting credit to such an extent that the system as a whole is in debt to the Federal Reserve System. This fact does not indicate monopoly or undue concentration.

H. The Primary Concern of the Industry

The banking system today is in a sound and healthy condition.

This should be the primary concern of the industry and regulatory agencies. The high level of business will not continue without some periods of readjustment. We have seen what happens in a business decline when we have been overbanked. Competition as a criteria for bank mergers is not in itself broad enough. Bank mergers should be examined along the line stated in section 6 of the FDIC Act.

I. There is no Unanimity of Thought

Government supervisory agencies should watch the economic and merger trends. It is a philosophy of our government to watch out for the small business and the individual. The banking authorities would be remiss in their duties if they did not note the merger trend. It is to be expected these agencies would oppose mergers as a lessening of competition. It is to be expected these agencies would like better and stronger tools with which to carry out their mission. After examining the problem and the proposed actions, it is evident that the required tools cannot easily be determined. The supervisory agencies are not in agreement as to methods or required action. We may therefore conclude that there is no unanimity among Federal supervisory agencies as to the proper course of action.

J. Economic Forces cannot be Controlled by Legislation

Lastly, no changes in Federal law should be made at this time. The economic forces within the economy should be given adequate

opportunity to work without artificial restraints. The fact that a few mergers in New York City forced the problem into the forefront should not let us lose sight of the basic causes for mergers. The banking industry is well regulated with proper safeguards for the public which include concentration and monopoly. If pressures are contained in one direction they will move in some other direction.

K. Mergers should be Examined through a Full Business Cycle

There are two recommendations which should be made. The present merger movement should be given more time to work itself out. We have had mergers before in the past 50 years but these mergers were for vastly different reasons. Financial stress was the motivating force. Today the trend is based on confidence, prosperity, and changing economic patterns. Business activity will not grow at its present rate indefinitely. The merger problem must be examined in a period of business slow-down to obtain a complete picture. The prospect for lower profits may have a great effect. The bank merger movement should be studied through the full cycle of business activity before legislative action is taken.

L. Legislation should remain in the Banking Statutes

The second recommendation has to do with method and applies after the action recommended above has been taken. If a study of the merger movement through a full business cycle still indicates legislative

action is required, the legislation should be placed in the banking laws. Legislation should maintain the present division of authority between the Comptroller of the Currency, The Federal Reserve Board, and The Federal Deposit Insurance Corporation. Mergers should be examined on a broad basis, not competition alone. Those factors enumerated in section 6 of the FDIC Act should be employed. In order to make a case clear cut, prior approval should be granted by the proper agency. This approval should be a defense against anti-trust action under the Sherman Act or the Clayton Act. If the merging banks are not satisfied with the action of the agency concerned, judicial review should be provided for. Time limits should be placed on all agencies so that expeditious action will be taken on requests. This line of action should prove equitable to all if further regulation is deemed necessary after further study.

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