

## Why Not Prosecute Usurers?

In a circular letter to national banks dated October 27, 1915, in which the comptroller of the currency called the attention of the national banks to the usury laws and to the oaths taken by national bank directors, he stated that a great many national banks had grossly violated the laws against usury.

The executive committee of the national bank section of the American Bankers' association, in a letter to the comptroller dated November 15, 1915, complained that the comptroller's statement above referred to had created a bad impression and had done a great injustice to the great majority of bankers and requested the comptroller to modify and correct his statements on the subject.

The comptroller's reply, dated November 23rd, 1915, is as follows:

Office of the Comptroller of the Currency,  
Washington, November 23, 1915.

To the Executive Committee of the National Bank Section of the American Bankers' Association, New York City.

Gentlemen:

Your letter of the 15th instant has been received and considered.

You inform me that a full meeting of your committee, held in New York on the 12th instant, took up for consideration a circular letter addressed by this office under date of October 27th, to all national banks, calling the attention of the banks to the law against usury and to the oaths taken by national bank directors to observe the statutes of the United States. The circular letter also stated that the records of this office show that a great many national banks have grossly violated the usury laws.

You inform me that your committee unanimously adopted a resolution declaring it to be the opinion of the committee that the usurious practices complained of "are confined only to some sections of the country and are not general," and you ask this office

"To make such modifications and corrections of the statements embraced in that letter as will do justice to the great number of banks which have not violated the statutes relating to rates of interest."

My statement that "a great many national banks have grossly violated section 5197, U. S. R. S., against usury," is literally true, and stands in no need of correction. It is a pleasure, however, to me to be able to state that the records show that a large majority of the national banks of the United States, according to the latest reports, are keeping their interest rates within the maximum figures permitted by law.

I was sincerely gratified to be in a position to announce in a public address to bankers, a few weeks ago, that a majority of the national banks were obeying the law in this respect. At the same time there are a great many national banks which have violated the usury law in the past, but which, I am confident, will not again do so, now that the provisions of this law have been made plain to their officers and directors and their attention called to their oaths of office.

As the records of this office show that more than twelve hundred (1200) national banks, including banks in forty-one (41) states, were charging in some of their loans, as late as September 2, 1915, twelve (12) per cent per annum interest or more (and in numerous cases more than sixty (60) per cent), it can hardly be claimed that the charging of excessive rates of interest is confined to either a few banks or a few localities. In twenty-seven (27) of these states, embracing approximately sixty (60) per cent of the total area of the continental United States, exclusive of Alaska, the rate of twelve (12) per cent or more is, under any circumstances, usurious.

The location of the national banks charging on some loans twelve (12) per cent or more was, as stated in my recent public address above referred to, as follows: 9 in New York state, 6 in Pennsylvania, 2 in Maine, 3 in Massachusetts, 5 in Virginia, 7 in West Virginia, 6 each in Florida and Louisiana, 66 in Georgia, 52 in Alabama, 163 in Texas, 7 in Arkansas, 17 in Kentucky, 28 in Tennessee, 4 in Ohio, 8 in Indiana, 40 in Illinois, 7 in Iowa, 19 in Missouri, 69 in North Dakota, 48 in South Dakota, 21 in Kansas, 46 in

Montana, 20 in Wyoming, 63 in Colorado, 33 in New Mexico, 287 in Oklahoma, 25 in Washington, 40 in California, 45 in Idaho, 18 in Utah, and 8 in Nevada, 3 each in Michigan, Oregon, North Carolina and Arizona. In New Jersey, District of Columbia, Nebraska, Minnesota and South Carolina only 2 banks in each admitted charging twelve (12) per cent or higher, and only one in Maryland.

The only states where there were no national banks which admitted under oath in their statements of September 2, 1915, that they were charging as high as twelve (12) per cent on any of their loans were Connecticut, Delaware, Mississippi, New Hampshire, Rhode Island, Vermont and Wisconsin.

In Maine, Massachusetts, Rhode Island, New York, Pennsylvania, Colorado and California high rates may, under the law, be charged by special agreement. The only other states in addition to the foregoing seven states, in which rates as high as twelve (12) per cent per annum may be charged, even by written contract, according to the reports recently received by this office from the attorneys-general of the several states, are Connecticut, Montana, South Dakota, Idaho, New Mexico, Washington, Wyoming and Utah, and wherever in these states rates in excess of twelve (12) per cent are charged, they are usurious.

Twelve hundred and forty-seven (1247) national banks in thirty-six (36) states, covering seventy-five (75) per cent of the total area of the continental United States, exclusive of Alaska, in their statements of September 2, 1915, admitted under oath that they were charging on some of their loans rates in excess of the maximum rates permissible, even by special contract, by the laws of their own states or of the United States. The penalty for the charging of usury in several states is a fine or imprisonment, or both.

The records also show that as of September 3, 1915, one thousand and twenty-two (1022) national banks in twenty-five (25) states were, by their sworn reports, charging an average of not less than ten (10) per cent, and in some cases eighteen (18) per cent, on all of their loans. The sworn statements of the banks in one particular state include a list of one hundred and thirty-one (131) banks whose maximum rates of interest ranged from fifteen (15) to twenty-four (24) per cent; 67 banks whose maximum rate was between twenty-five (25) and sixty (60) per cent; 22 banks which charged between sixty (60) and one hundred (100) per cent, and 26 banks whose maximum rates were one hundred (100) per cent or more.

The sworn reports of the banks also show that, on September 2, 1915, two thousand seven hundred and forty-three (2743) national banks, out of a total of seven thousand six hundred and thirteen (7613), being more than thirty-six per cent of all the national banks of the country, were charging on some of their loans ten (10) per cent per annum or more—in hundreds of banks very much more.

When 2743 national banks in forty-two (42) states, covering ninety-eight (98) per cent of the total area of the continental United States, exclusive of Alaska, admit under oath that they are charging ten (10) per cent or more on some of their loans, and when 1022 national banks in twenty-five (25) states, which include seventy-four (74) per cent of the total area of the continental United States, exclusive of Alaska, also confess that they have been charging on an average anywhere from ten (10) per cent to eighteen (18) per cent or more on all of their loans, is it not flying in the face of facts to suggest that the practice is confined either to a small area or to a few banks?

It is also worthy of note that a majority of all the national banks in twenty-one (21) states, including over sixty-five (65) per cent of the total area of the continental United States, exclusive of Alaska, admit that they are charging as high as ten (10) per cent on some loans, and a majority of all the national banks in six states, whose area embraces more than one-fourth of the territory of the continental United States, exclusive of Alaska, admit, likewise, under oath, that they have been charging an average of ten (10) per cent or more on all of their loans.

Of the 1022 national banks which certified under oath that they were receiving an average of

ten (10) per cent or more on all of their loans, 2 were in Illinois, 6 in Minnesota, 2 in Missouri, 23 in Georgia, 6 in Florida, 21 in Alabama, 2 in Louisiana, 317 in Texas, 17 in Arkansas, 3 in Tennessee, 90 in North Dakota, 25 in South Dakota, 18 in Nebraska, 5 in Kansas, 38 in Montana, 14 in Wyoming, 37 in Colorado, 35 in New Mexico, 300 in Oklahoma, 12 in Washington, 10 in Oregon, 13 in California, 2 in Utah, 1 in Nevada and 33 banks in Idaho.

During this same period, while so many national banks were charging excessive rates to customers, the Federal Reserve banks were offering money freely to the national banks in every part of the country at rates varying from three and one-half (3½) to five (5) per cent, according to the class of paper and the time to maturity. There was no reason why sound, well-managed banks in any section could not have gotten at these low rates all the money required to supply the needs of customers, whether farmers, merchants or manufacturers, or why the national banks should not have loaned the funds to their customers in every case well within the rates prescribed by law.

Under such circumstances, and with these facts before you, I am confident that you will revise your opinion that this office has done, as you express it "a great injustice to the great majority of bankers throughout the country," in making the statement in my circular letter of October 27th that "the sworn statements of condition of a great many national banks show that Section 5197, U. S. R. S., against usury, has been grossly violated by these banks."

Concerning your statement that many millions of dollars of money are being loaned by banks at less than the legal rates, may I point out that this is a poor consolation to those borrowers who have been charged and are being charged in so many cases, from three to ten times the legal rate permissible under the laws of the different states and under the provisions of the National Bank act?

The facts developed in the investigation recently conducted by this office with reference to usury have suggested the desirability of requesting national banks to print hereafter in their published statements of condition, the maximum rates of interest charged, and the amount of money which they may be lending at rates in violation of Section 5197, U. S. R. S., relative to usury. If this is done, will not the public learn, fairly and rightly, which banks, in the matter of interest charges, are conforming to the law and which are not? Such publication could do no injustice to any bank that honestly tries to keep within the laws which all bank directors have solemnly pledged themselves to observe.

To illustrate the unfairness of some of the complaints made by usurers and which reach this office, let me take this occasion to call attention to an attack made upon the Federal Reserve system just a year ago by a certain national bank which denounced the six and a half (6½) per cent rate for long time paper, established at the outset by Federal Reserve banks (though soon reduced to five (5) per cent) as "unreasonable," "exacting" and "prohibitive," "prejudicial to the new system" and calculated to shake "confidence" in the "members of the Federal Reserve board."

An examination of the complainant bank which this office promptly caused to be made, showed that this bank, with assets of more than a million dollars, had been a gross violator of the usury laws; had been charging its customers for money more than ten times the 6½ per cent rate which it characterized as "unreasonable, exacting and prohibitive," and had in the three or four months preceding its complaint, made more than 400 loans in amounts from \$50 to over \$10,000 each, on which it had exacted rates ranging from ten (10) per cent to one hundred (100) per cent, including one loan of \$2,067 at sixty-four (64) per cent, and another for \$553 at eighty-five (85) per cent.

I realize that a great many banks, including some of the greatest banks of the country, are dealing justly with their customers and maintaining the wise policy of helping in the expansion of business and the guarding of its safety. It is from these very institutions that I hope for aid, both by example and influence, in repressing the practices of which this office has complained, and in protecting borrowers against oppression, and the banking interests generally against public anger, provoked by the offenses of a minority, but bestowed without discrimination.

I hope earnestly we may work together to impress on the offending banks, including so many