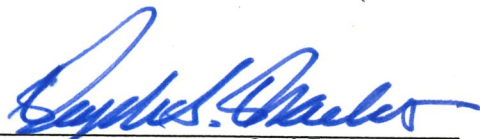


Approved


Date 3-27-90

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions

The meeting was called to order by Clyde D. Graeber at
Chairperson

3:30 ~~a.m.~~/p.m. on March 20, 1990 in room 527-S of the Capitol.

All members were present except:

Committee staff present: Bill Wolff, Research Department
Bruce Kinzie, Revisor of Statutes
June Evans, secretary

Conferees appearing before the committee: Jim Maag, Kansas Bankers Association
Bill Docking, President, KBA and President,
Union State Bank, Arkansas City
Murray Lull, President, Smith County State
Bank, Smith Center
Ed Bruske, President, Kansas Chamber of
Commerce and Industry
Barkley Clark, Attorney with Shook, Hardy and
Bacon

The Chairman called the meeting to order at 3:30 and opened the hearing on Senate Bill 532, an Act relating to banks and banking; concerning acquisitions by bank holding companies; providing for powers and duties of the bank commissioner and state banking board; authorizing penalties for certain violations; amending K.S.A. 1989 Supp. 9-519, 9-520, 9-521, 9-523, 9-524 and 9-1701 and repealing the existing sections.

Jim Maag, Kansas Bankers Association, introduced Bill Docking, President, Union State Bank and President, KBA, and Murray Lull, President of Smith County State Bank, Smith Center.

Bill Docking was the first conferee appearing, stating that the Kansas Bankers Association has a strong interest and participation in Kansas economic development. KBA believes it will be necessary for our industry to have maximum flexibility if we are going to adequately serve our customers. Our banks will need the opportunity to become part of a national and regional banking network which are and will continue to be forged during the 1990s. Therefore, we believe the granting of authority for interstate acquisition of banks is the next logical step in creating a safer and stronger banking system for Kansas.

Interstate banking is present in all of our neighboring states and 43 other states. On November 29, 1989, the Governing Council of the KBA voted to support legislation which would allow interstate acquisitions by bank holding companies. This was not a decision arrived at lightly, but one that was the culmination of several months of discussion and analysis by Kansas bankers. Every Kansas banker and bank owner has had the opportunity for input on this issue over the past 9 months.

The KBA believes it will be necessary for our industry to have maximum flexibility if we are going to adequately serve our customers. Our banks will need the opportunity to become part of national and regional banking networks which are and will continue to be forged during the 1990s. Therefore, we believe the granting of authority for interstate acquisition of banks is the next logical step in creating a safer and stronger banking system for Kansas. (See Attachment #1).

The next conferee was Murray Lull, President of Smith County State Bank and Trust Company and one of eleven American Bankers Association's Banking Advisors, stating he sometimes feels interstate banking is really not a crucial issue for himself and his bank customers. That is until

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions,
room 527-S, Statehouse, at 3:30 ~~am~~/p.m. on March 20, 1990

I realize that there are few issues that do not affect us and our delivery of services to our customers in some way.

The unfairness of the current Kansas prohibition of interstate banking is best demonstrated by comparison with other financial service providers that have no such restriction. There will be some very beneficial combinations of banking service as a result of interstate banking. The winners will be Kansans, who need and deserve every opportunity for financial service. (See Attachment #2).

Ed Bruske, President, Kansas Chamber of Commerce and Industry, gave testimony in support of SB 532 stating it has always been KCCI's philosophy that the least amount of government regulation is the best atmosphere for the private sector to flourish and expand its base, ultimately supplying jobs needed in Kansas; however, a few years ago KCCI surveyed its membership on this banking question. The banking members voted 60-40 in favor of multi-bank and interstate banking. It was indicated they were satisfied with the services they were receiving from their community banks but they indicated that Kansas should move forward and allow the banking industry to grow along with the rest of Kansas business and be prepared to meet the business growth needs of the future. KCCI believes it is time to move forward and strongly support interstate banking because it is felt it opens up a whole new vista of financial opportunities without closing the door to any business, including banking business. (See Attachment #3).

Barkley Clark of Shood, Hardy and Bacon, Kansas City and Overland Park, was the next conferee stating the time has come for interstate banking in Kansas. As of 1989, Kansas now stands alone with Hawaii, Montana and North Dakota as one of the few states without any banking legislation. For a state that looks with eagerness to the sale of its goods and commodities in national and international markets, the refusal to recognize a free market for financial services seems self-defeating. I think it creates a real image problem. It is felt the benefits of interstate banking far outweigh any negatives. Many elements of interstate banking are already in place, regardless of what the Kansas legislature does. The new FIREAA legislation for the first time allows the acquisition of healthy thrifts across state lines, so that Kansas thrifts can now be used to deposit-gatherers for out-of-state bank organizations, and are therefore given an edge over Kansas commercial banks. Legislature is dealing with the branching issue, enacting a law that puts state-chartered banks on a par with national banks. Intrastate branching and interstate banking should logically be considered as part of a "modern bank structure" package in this session of the legislature.

We already have interstate banking. Forty-six of the fifty states have enacted some form of interstate banking legislation, either regional or unlimited.

Under the new FIREAA legislation, out-of-state bank holding companies can acquire healthy thrifts in Kansas, irrespective of state law. This is sure to happen, and happen soon.

Most economists agree that interstate banking increases the range of banking services available to the public. Competition is the key. Research indicates that availability of credit to farmers, businesses and consumers tends to increase, since larger banks have higher lending limits and loan-to-deposit ratios. The evidence indicates that market entry by acquisition generally leads to a broadening of portfolio policies, an increase in the variety of products offered, and downward pressure on prices for those products, along free market lines.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions
room 527-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 20, 1990

SB 532 provides regional reciprocity with states contiguous to Kansas, plus Iowa and Arkansas; this is a big step forward, though many states have larger regions or have moved to total interstate reciprocity. Out-of-state bank holding companies are prohibited from establishing a new bank in Kansas or purchasing any Kansas bank that has been in operation for less than 5 years; this limit on denovo acquisitions is protective of existing Kansas banks, though many other states do not impose it. Finally, the effective date of SB 532 is put off until July 1, 1992, nearly two years in the future and by comparison, the Iowa bill becomes effective next year. Reform of our banking structure these days is comprised of three elements; (1) authorization of multibank holding companies; (2) unlimited branching; and (3) interstate banking. The first two elements are already in place in Kansas. We have had multibank holding companies since 1985, and they have worked well. We have had unlimited branching for national banks in Kansas since last year, when federal judicial developments under the McFadden Act overrode state anti-branching laws. This session, the legislature is appropriately giving state-chartered banks competitive equality by allowing them to branch without limit. This is the second major structural change, one that has been needed for a long time. The third element is a modern interstate banking law. SB 532 will put this final element into place, like adding the third leg to the stool. (See Attachment #4).

The Committee asked questions of conferees. Representative Shallenburger asked of Mr. Clark - why out of state banks couldn't buy existing banks, this seems very conservative, why is this?

Mr. Clark felt it was a political compromise and stated he felt the effective date should be January 1, 1991.

It was asked how Kansas has been hurt by not having interstate banking. Mr. Clark stated that the international market will not want to participate.

It was asked if any of the states had gained industry because of having interstate banking?

Mr. Lull stated businesses are more receptive.

It was asked if any jobs had been lost because of not having interstate banking?

Ed Bruske stated, not sure we have lost out but know Missouri and Oklahoma have enticed people into coming in.

After the discussion the Chairman closed the hearing for the proponents on SB 532.

Representative Green moved and Representative Eckert seconded that the minutes of March 13 and 15 be approved. The motion carried.

The meeting adjourned at 4:45 P.M.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 20, 1990

TO: House Committee on Commercial & Financial Institutions
RE: **SB 532** - Interstate acquisitions by bank holding companies

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before this committee in support of **SB 532**. My name is Bill Docking and I am President of the Union State Bank in Arkansas City. I am also currently serving as President of the Kansas Bankers Association and I appear here today in that capacity.

Members of this committee who have served in the Legislature for the past several years are well aware of the KBA's strong interest and participation in our state's economic development. The KBA worked very closely with legislative committees and leadership in 1986 in formulating and working for the passage of the major package of economic development bills passed that session. Once those measures were enacted, the KBA and Kansas banks have worked just as hard to see that their passage would result in more than rhetoric about economic development. Kansas banks have invested approximately \$6 million in the stock of Kansas Venture Capital, Inc. A Kansas banker currently serves as Chairman of KVCI. The KBA, as well as individual Kansas banks, financially support Kansas, Inc. to assist that organization in gaining state matching funds for its operation. In addition, the KBA has for many years underwritten major Economic Education projects at KU and Kansas State.

Therefore, as testimony and discussion proceed on interstate banking before this committee and statements are made about who has and who has not forged a strong record in working for the economic betterment of this great state, I would ask you to remember what the KBA has done and will continue to do toward being a good citizen of this state - - a record we would challenge most any other organization to match and one we would ask you not ignore!

We want to work constantly for the economic benefit of Kansas in every way we possibly can - - and that is why the KBA has taken a position in favor of **SB 532** which would allow banks to be acquired on an interstate basis by bank holding companies.

On November 29, 1989, the Governing Council of the KBA voted to support legislation which would allow interstate acquisitions by bank holding companies. This was not a decision arrived at lightly, but one that was the culmination of several months of discussion and analysis by Kansas bankers. Every Kansas banker and bank owner has had the opportunity for input on this issue over the past 9 months and it wasn't until this open and democratic process was completed that the Governing Council made its final decision.

During the past decade, you, the members of the Kansas Legislature, have enacted several major bank structure laws which have significantly improved the state banking system to the benefit of the citizens of Kansas. Due to these positive changes, we have stronger banks, more banking facilities in towns which did not previously have banks, and more services available at bank branches which make banking more convenient for customers. It would be difficult to find any bank customer today who would want to give up the positive changes in banking structure which the Legislature has enacted. And yet every one of those changes was strongly opposed by some groups who predicted great problems to come - - none of which ever came.

Now you must analyze how our banking system can best meet the challenges of this new decade as Kansas business, agriculture, and industry expand their various roles in what is rapidly becoming a global economy. The KBA believes it will be necessary for our industry to have maximum flexibility if we are going to adequately serve our customers. Our banks will need the opportunity to become part of national and regional banking networks which are and will continue to be forged during the 1990s. Therefore, we believe the granting of authority for interstate acquisition of banks is the next logical step in creating a safer and stronger banking system for Kansas.

As you well know, interstate banking is not an unknown quantity. There is no need to speculate about its results because all that is required is to look around us. It is present in all of our neighboring states and 43 other states. An objective examination of what is occurring in those states totally defeats predictions of doom. Recent economic studies by the Federal Reserve have shown clearly that in those states where there is a relatively high concentration of out-of-state ownership loan volume has increased - - most often at a rate higher than those states where interstate activity is dormant.

Experience in those states also indicates large and small banks, as well as all types of bank ownership, can exist side by side and provide even better services to communities and to all segments of the economy. There can be no doubt that community banks do thrive and will continue to thrive in an interstate environment. As FDIC Chairman, L. William Seidman, has noted, "Success is not necessarily determined by size. Rather, success comes from a firm's ability to supply its product to the customer as he desires and to change with the customer's changing needs."

The time has come to give Kansas banking the opportunity to plan for the decade ahead. No other industry in this state has the statutory chains binding it like those which prohibit the interstate activity of banking. Why is it that while our competitors in the marketplace are allowed to come and go across state lines and grow as they please, we are subject to restrictions on expansion which have no rational reason for existing?

The fact that changes in the banking industry are occurring at an ever increasing pace is reflected in such events as the recent enactment of federal legislation (FIRREA) which has overridden many state restrictions to interstate activity by banks and bank holding companies. Expansion into the banking industry by other types of corporations, i.e., Sears, American Express, J. C. Penney, etc., continues at a rapid rate which further accentuates the need for giving the Kansas banking industry maximum flexibility in meeting this competition.

In closing, I would like to call the committee's attention to the provisions of Section 8 of **SB 532**. Those who have testified in opposition

to this measure in other House committees have apparently not read that section of the bill or have conveniently chosen to ignore it since it addresses every one of the concerns they have raised about the acquisition of a Kansas bank by an out-of-state holding company. In fact, this section imposes standards on banks that are nearly non-existent for all of our competitors already operating on an interstate basis.

Section 8 sets extremely high standards which must be met before the out-of-state holding company is allowed to purchase a Kansas bank and then that same section requires that an annual report be filed showing that the acquired bank is serving the consumer, businessman and farmer in the community where it is located. If the State Bank Commissioner finds that the bank and its holding company have, in fact, failed to meet these high standards the holding company is subject to severe penalties or possible divestiture.

Again, I would strongly urge the members of the committee to study the provisions of Section 8 closely. I truly believe it will alleviate any fears you might have about the consequences of a Kansas bank being purchased by an out-of-state holding company.

For the reasons which I have stated, and many others which will be expressed by the conferees who follow me, the Kansas Bankers Association is requesting the passage of **SB 532**. We certainly hope the material presented to you by the KBA staff has been of assistance as you ponder your decision on the interstate issue. As always, the staff and officers of the Association stand ready and willing to discuss the issue with you and provide any additional information which might be needed. Thank you again for the opportunity to appear before the committee and I will be most happy to answer any questions the committee might have.

TO: House Committee on Commercial & Financial Institutions

RE: **Senate Bill 532** - Interstate Banking

Mr. Chairman and Members of the Committee

My name is Murray Lull. I am President of The Smith County State Bank and Trust Company, a border county bank in Smith Center. I am also Chairman of the Board of another border county bank in Smith County, the First National Bank of Lebanon. Since 1985, I have been very active in the American Bankers Association's efforts in Agricultural Banking, serving on the ABA's Ag Bankers Division Executive Committee, and have just completed a term as Chairman of that Committee.

I also presently serve as one of eleven American Bankers Association's Banking Advisors. As spokesmen for the ABA, I travel across the United States talking about consumer issues in banking through interviews on television, radio, and in newspapers. I've found out a lot about banking laws and practices across the United States, and when I talk about interstate banking, being a Kansas banker, I have an advantage in remembering that Kansas is one of now only three states that does not allow interstate banking in any form.

I would have to say that I am one of those who has sometimes felt that interstate banking is really not a crucial issue for me and my bank and my customers. That is until I realize that there are few issues that do NOT affect us and our delivery of services to our customers in some way. Attached to my testimony is a letter from a fellow western Kansas banker, in an agricultural community, which also states that interstate banking would be a positive force for Kansas. Interstate banking is an issue for which the time has come in **Senate Bill 532**.

The unfairness of the current Kansas prohibition of interstate banking is best demonstrated by comparison with other financial service providers that have no such restriction. The largest ad in the last two weeks in the Smith County Pioneer, our local newspaper, was placed by First Federal Lincoln. First Federal Lincoln is a Nebraska savings and loan with branches in Kansas communities such as Stockton and Plainville. By virtue of the ads they put in our local paper, they're also in Smith Center, Kansas. Interstate savings and loan activity in Kansas is a fact of life. And so are the interstate financial activities of insurance brokers, investment firms, even Sears, none of whose business opportunities are restricted by state boundaries.

One of the concerns commonly tossed out by opponents of interstate banking is that there will be an export of lendable funds from Kansas agricultural banking. That is just not so. In the years that I have worked and talked with agricultural bankers across the United States, never has there ever been any evidence, comment or concern that interstate banking has been a detriment to the nation's ag bankers providing funds to their farm customers. Period.

Atch #2

Certainly today credit is NOT scarce in agricultural finance. And it has rarely been so. Interstate banking will not lessen the availability of credit for agriculture -- it will add to that availability.

What is scarce in Kansas banking is capital. The median size bank in Kansas today is \$23 million in total assets. The capital needed to support a bank this size ranges from \$1.5 to \$2 million, and, of course, is provided by the owners' investment in these banks. When owners of Kansas banks attempt to sell their banks, it is increasingly difficult to find investors who are both capable of managing banks and willing to invest sizeable amounts in banks located in small rural communities in Kansas. Interstate banking will add to the availability of capital needed to support Kansas bank depositors' funds.

As agriculture becomes more and more international, it is increasingly inappropriate for Kansas to remain so restrictive in allowing the full range of banking service options to be available, not only to Kansas farmers, but to their suppliers, and purchasers and exporters of farm commodities.

Because interstate banking is one of the few remaining issues we and some of our banking friends carrying the so-called independent banking banner disagree about, I was reminded of the irony of the debate over the years about banking structure by a recent news story in an area newspaper. That story announced the proposed purchase of a small rural bank by a larger community bank. The smaller bank would be absorbed by the larger, and the smaller, as has been done numerous times across the state, would become a branch of the larger. Until the law was changed in 1987, this merger and branch formation would not have been possible. But you, the Legislature, had the courage and foresight to know that for small communities to retain banking services for their residents, branch banking was necessary. The irony is that the bankers involved in this announced branching transaction were two of the most vocal opponents of what you and we saw as progress in Kansas banking and one of the bankers even appeared before the Legislature in opposition to branching. Now, less than three years later, they themselves are utilizing branch banking as a way their banks might survive in an area of shrinking population.

Just as there have been some excellent combinations of banks, (and theirs' will be among those) as a result of your allowing branch banking in Kansas, there will be some very beneficial combinations of banking service as a result of interstate banking. The winners will be Kansans, who need and deserve every opportunity for financial service.

Interstate banking is truly a consumer issue. As Kansans choose the provider of financial services that best suits their needs, I have every confidence that well-managed community and rural banks will always thrive in such a marketplace environment.

I urge your favorable consideration of **Senate Bill 532**.

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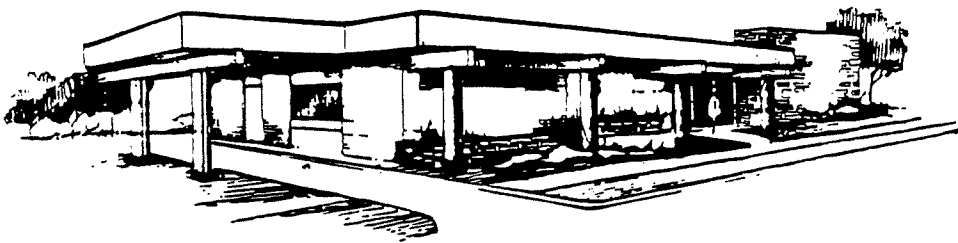
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FRANKLIN W. NELSON
CHAIRMAN OF THE BOARD
CHIEF EXECUTIVE OFFICE

Your Friendly Bank

THE BURDETT STATE BANK



February 12, 1990

TELEPHONE (316) 525-
BURDETT, KANSAS 67

Senator Richard Bond
Chairman
Senate Committee on Financial Institutions and Insurance
State Capitol
Topeka, Kansas 66612

Re: Senate Bill 532

Dear Senator Bond:

As a matter of introduction, my name is Franklin W. Nelson, Chairman of the Board and C. E. O. of The Burdett State Bank. Our bank is a small rural bank located in Burdett, Pawnee County, Kansas. We are located within the 37th Senatorial District and the 114th House District and very ably represented by Senator Moran and Representative Roenbaugh. It was my intent to appear personally to present testimony before this committee, but circumstances have prevented me from doing so. Accordingly, I have delivered this letter to the Kansas Bankers Association, with the request to have a colleague present this testimony on my behalf and personally hand deliver this letter to you. Thank you for allowing me the opportunity to present my views.

It appears to me that the interstate banking issue has raised unfounded fears that interstate banking would create unfair competition from money center banks within rural and community bank markets. I would like to address that issue from the perspective of a "country banker".

If I may present a simplistic first response to those fears, I would have to advise that I can see nothing detrimental to any properly managed small country or community bank.

As an additional preface, any type of fair competition is good for Kansas and Kansans. To be honest, I personally do not desire additional competition, but I am not afraid to compete. I do not fear competition from a Commerce Bank of Kansas City, or the Bank of Oklahoma. This bank can compete very successfully against any commercial bank, as can any country or community bank that properly serves it's community. I do fear the predatory pricing by Federal

FDIC insured Certificates of Deposit by Sears or mutual funds and national insurance companies that offer banking products, etc. The reason I am concerned about the Sears, insurance, mutual fund type competitors, is that they are permitted to offer all banking products while playing under a different set of rules, and banks are strictly restricted to banking activities only, and stringently regulated. But, I tend to digress.

As you know, Kansas bankers have historically approached banking structure changes from a very conservative position. As you also know, this legislation does not provide for nationwide interstate banking, but only a regional interstate system and then only with reciprocity from the other states. This appears to be an appropriate initial approach, and should interstate banking be beneficial to Kansas, then a nationwide system can be considered within future legislation.

In addition, I do not believe that Western Kansas bankers can continue to maintain a selfish parochial view regarding banking structure. We must remember that this is potentially very valuable legislation to the Citizens of Kansas and the banking community outside of our rural areas.

As you are well aware, interstate banking in some forms is already with us. Accordingly, I would think that it would only be appropriate for Kansas to shape its own legislation regarding interstate banking rather than to continue to let outside de facto circumstances shape whatever forms interstate banking might become without legislation.

Again, I believe that the legislation as proposed is not detrimental to small country or community banks, and in fact, I feel that the legislation is progressive for Kansas as a whole. The Burdett State Bank will probably never realize any measurable direct benefit, but if it benefits Kansans and other Kansas banks, then I encourage it's passage. I appreciate the opportunity to express my views on this matter.

Sincerely,

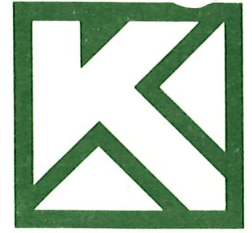
THE BURDETT STATE BANK

Franklin W. Nelson

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 532

March 20, 1990

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
House Commercial and Financial Institutions
by
Ed Bruske
President

Mr. Chairman and members of the Committee:

My name is Ed Bruske, president of the Kansas Chamber of Commerce and Industry.

KCCI would like to take this opportunity to support SB 532, interstate banking for Kansas.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

It comes as no surprise that KCCI because of its membership makeup and historic voting record supports SB 532, interstate banking. It has always been KCCI's philosophy that the least amount of government regulation is the best atmosphere for the private sector to flourish and expand its base, ultimately supplying jobs needed in Kansas.

Atch #3

A few years ago KCCI surveyed its membership on this banking question. Our banking members voted 60-40 in favor of multi-bank and interstate banking, while our general membership voted approximately 80-20 in favor of multi- and interstate banking. It was interesting to note that our non-banking members indicated they were satisfied with the services they were receiving from their community banks but they indicated that Kansas should move forward and allow the banking industry to grow along with the rest of Kansas business and be prepared to meet the business growth needs of the future. That was approximately three years ago and I'm sure those figures would be substantiated today.

Most of us would like to keep things as they are, but there comes a time when we all realize that this is a global economy and we must link up with our neighbors if we are to participate in future growth. Activities around the world in the past six months will offer Kansas a tremendous opportunity to sell our products and services globally, not to mention the opportunity Kansas has to promote itself to these new emerging democracies.

Kansas is now spending millions of dollars to promote world trade and assisting our existing business with their marketing efforts. We're spending these dollars in the hope of attracting new capital and jobs to our state. We have a specific department within the Kansas Department of Commerce whose prime objective is to link Kansas business with other businesses around the country and the world; and, at the same time, this department spends millions of dollars attempting to attract new business to Kansas. All of this activity revolves around acquiring financing. The least we can do is to match these efforts by letting our banking industry progress at the same pace. Why do we continue to insist on over-regulating the banking industry from the growth arena? The movement since 1970 has been to de-regulate and let business reach their level of competitiveness. The protectionist attitude has faded and the winners are business, government and the consumer.

The banking industry in Kansas has done an outstanding job of meeting our needs. There is no reason to believe that community banks will not continue to thrive. Like any other business, large or small, those that have a good product and personal service will not only survive, but will grow.

In closing, KCCI believes that it's time for us to move forward with a proven procedure. We strongly support interstate banking because we feel it opens up a whole new vista of financial opportunities without closing the door to any business, including the banking business.

THE TIME HAS COME FOR INTERSTATE BANKING IN KANSAS

Professor Barkley Clark
Shook, Hardy & Bacon
Kansas City and Overland Park

The Louisiana Parallel. I just returned from a trip to New Orleans, where I spoke to Louisiana bankers and bank attorneys about Article 9 of the UCC governing secured lending. The Louisiana legislature refused to enact Article 9 until last year, making it the last state in the country to modernize its commercial law. The legislature finally got the message when it became apparent that people did not want to do deals in Louisiana because of its antiquated laws. It was perceived as insular by businesses and lenders around the country. Now it finally has adopted the UCC and it is madly trying to make up for lost time.

There is a parallel between the Louisiana experience with the UCC and the Kansas experience with interstate banking legislation. As of 1989, Kansas now stands alone with Hawaii, Montana and North Dakota as one of the few states without any interstate banking legislation. In fact, when you factor out the exceptions, only Montana and Kansas remain without any legislation at all. In a world that is increasingly interdependent in the delivery of financial services, the continued existence of Chinese walls around Kansas seems more and more out of date. For a state that looks with eagerness to the sale of its goods and commodities in national and international markets, the refusal to recognize a

free market for financial services seems self-defeating. I think it creates a real image problem.

Objections are Overblown. In my conversations with many Kansas bankers at the Bank Management Clinic in Lawrence last June, and at the CEO meetings in August, I got the feeling that the objections to interstate banking are overblown. I sensed that most Kansas bankers feel that it is inevitable that we take down the Chinese walls, and that we not try to win the prize for being the very last state in the country to do so. Kansas has a history of progressive legislation in many areas, including banking. The UCC, the UCCC, the lifting of interest rate ceilings, the corporation and banking codes--all of these laws have kept us in the forefront. But when it comes to interstate banking, time just keeps passing us by.

Let's Look at the Broader Policy Issues. The discussions of interstate banking focus on who is likely to make the most money, and who is worried about some more competition. I would like to stand back from these concerns and look at the broader public policy issues. Having been closely involved with bank legislation in Washington during the last four years, I have become persuaded that the benefits of interstate banking far outweigh any negatives. It is also true that many elements of interstate banking are already in place, regardless of what the Kansas legislature does. It seems preferable for Kansas bankers

to have a say in how good legislation is shaped for the future, rather than simply await the inevitable.

1990 as a Watershed. 1990 is a particularly appropriate year for the legislature to act, since we have now had a reasonable length of time for consolidation within the state under the 1985 multibank holding company legislation. In addition, the new FIREAA legislation for the first time allows the acquisition of healthy thrifts across state lines, so that Kansas thrifts can now be used as deposit-gatherers for out-of-state bank organizations, and are therefore given an edge over Kansas commercial banks. 1990 is appropriate also because the legislature is dealing with the branching issue, enacting a law that puts state-chartered banks on a par with national banks. Intrastate branching and interstate banking should logically be considered as part of a "modern bank structure" package in this session of the legislature. Finally, 1990 marks the beginning of a new decade, an appropriate starting point for more progressive interstate banking legislation.

Set forth below are some of the important policy issues regarding interstate banking as I see them.

We Already Have Interstate Banking. Opponents of interstate banking should recognize that, in many respects, it is already here. Consider the following elements of interstate banking that are presently in place:

*46 of the 50 states have enacted some form of interstate banking legislation, either regional or unlimited. Virtually all of this activity has taken place in the last five years. Just this month, Iowa enacted an interstate banking bill.

*Correspondent banking networks abound.

*Loan production offices are found throughout Kansas.

*The farm credit system is an interstate operation.

*Credit unions and thrifts--the closest competitors of commercial banks--have no geographic limits on doing business. A 1987 Kansas statute allows reciprocal thrift interstate branching. Four out-of-state S&L's have branches in Kansas. Other financial institutions like finance companies and mortgage bankers have no geographic limits. They can offer their services according to their natural markets, giving them a competitive edge over commercial banks in Kansas.

*Under the new FIREAA legislation, out-of-state bank holding companies can acquire healthy thrifts in Kansas, irrespective of state law. This is sure to happen, and happen soon.

*Other companies offering a wide range of financial services--Sears, Prudential/Bache, Ford, American Express, etc.--have no geographic limits.

*Bank holding companies that operated interstate prior to enactment of the Bank Holding Company Act of 1956 are grandfathered.

*Electronic banking knows no state boundaries. Elements of interstate electronic banking include: ATM's, nation-wide bank credit card systems, point-of-sale debit cards, automated clearinghouses, wire transfer systems, and telephone home banking. There are now 70,000 ATM machines in this country and 190 million bank credit cards; both of these devices allow banks to follow their customers across state lines.

*Loan participations are made interstate.

*Federal funds and U.S. securities markets involve interstate investment.

*Nonbank offices owned by a bank holding company but not qualifying as "banks" under the Bank Holding Company Act may be established across state lines. Activities permitted by Federal Reserve Board Regulation Y that can be carried on across state boundaries include: loan servicing, factoring, operation of industrial loan companies, commercial and consumer finance companies, trust or fiduciary services, investment or financial advising, equipment leasing, data processing, discount brokerage, credit-related insurance activities, courier services, management consulting, real estate and personal property appraisal, arranging commercial

real estate equity financing, underwriting and dealing in U.S. government obligations, consumer financial counseling, investment advice on financial futures and options, tax planning and preparation, and operating a collection agency or credit bureau. By order, the Federal Reserve Board has expanded this list of allowable interstate activities by a bank holding company affiliate. All of these interstate activities go on in Kansas all the time.

*Chain banking, in which Kansas is heavily involved, can take place across state boundaries.

This list could be expanded further, but the point is clear: Kansas banks already operate in an interstate environment, like it or not. This trend will only continue. You cannot ignore economic interdependence, natural market forces and modern technology.

Other Public Policy Considerations

*Level and Quality of Banking Services to Local Communities. Most economists agree that interstate banking increases the range of banking services available to the public. Competition is the key. Research indicates that availability of credit to farmers, businesses and consumers tends to increase, since larger banks have higher lending limits and loan-to-deposit ratios. The evidence indicates that market entry by acquisition generally leads to a broadening of portfolio policies, an increase in the

variety of products offered, and downward pressure on prices for those products, along free market lines. Interstate banking also increases competitive linkages and thus enhances competition in general. It seems clear that the Kansas consumer will benefit from interstate banking.

*Capital Outflow and Inflow. One of the arguments always trotted out in opposition to interstate banking is that deposits will be drained from the state and used for lending elsewhere. There is no evidence to support the contention that interstate banking tends to syphon funds from rural markets into national or regional money centers. Community banks already "export" deposits when they invest in U.S. securities or put themselves in a net Fed Funds Sold position. If the loan demand is there, it will be met by the bank, whether it is owned by a Kansas bank holding company or one headquartered in another state. Banks are also constrained by the Community Reinvestment Act into assuring a flow of credit into the local community. As things stand now, banks in a metropolitan area which straddles two states are not allowed to serve their natural "community." For example, a bank in Johnson County cannot have a formal presence in Kansas City, Missouri, and is therefore cut off artificially from its natural market and "community."

The argument that local deposits will be collected by outsiders and used to make loans elsewhere has also been made with respect to multibank holding companies in Kansas. After four

years' experience with multibank holding companies, it seems clear that any fears were unfounded. The argument is also made in connection with state-wide branching, but I do not hear a great hue and cry from Kansas bankers that unlimited branching will have any significant impact on deposit flows.

Evidence in other states that have had interstate banking for some time indicates that neither unlimited branching, nor multibank holding companies, nor interstate banking lead to deposit drains in local communities; local credit is not only maintained, but often increased. Entering banks have dual interests--deposit gathering and loan generation; these are highly interdependent in a given market.

In fact, taking down the Chinese walls should cause capital to flow into Kansas. Capital flows will become more efficient. Regional players have access to broader capital markets through issuance of commercial paper and other techniques. Experience in other states has shown that interstate banking can make more loans available for local businesses, with higher lending limits.

*Viability of Community Banks. Another argument against interstate banking is that it poses a threat to smaller community banks. There is no evidence at all to support this assertion. In fact, the evidence suggests that smaller banks are not hurt by interstate banking because they have no significant scale size disadvantages. when a state drops its Chinese walls, community

banks comfortably maintain their market nitch. In California and New York, both of which have allowed unlimited branching for years, community banks continue to have an unchallenged market nitch, with a stream of new applications. Small banks tend to outperform larger banks in terms of return on assets and equity, and there is no indication that this performance will be dampened by interstate banking.

In today's financial services market, there is room for a great variety of players--money center giants, regional banks, mid-sized banks, and community banks. If Kansas adopts interstate banking in 1990, it is very unlikely that many acquisitions from out of state would occur in smaller communities; interstate acquisitions in other states have generally been limited to banks of at least \$100 million in footings, which is by definition beyond the size of Kansas community banks. In fact, for the typical community bank, interstate banking will be a "nonevent," just like multibank holding companies and state-wide branching. Most activity will probably occur in places like Johnson County. With or without interstate banking, Kansas will continue to have a large number of strong community banks, although we can expect some continuing consolidation.

*Safety and Soundness. One of the factors that has led to bank failures in the last decade is geographic insularity. Banks too heavily dependent on the oil patch or agricultural lending can be hurt badly when that segment of the economy goes

into the dumps. One of the beauties of interstate banking is the way it increases loan and investment diversification. It also serves as a mechanism for injecting capital into weak banks suffering under a bad economy. Asset diversification can also be achieved by loan participations, but the sad experiences of Continental Illinois and SeaFirst show that banks can be crushed by relying on participations when they do not have adequate knowledge about the lead bank originating the loans. Interstate banking lessens the dependency on participations and thereby increases safety and soundness. Of course, the Fed will carefully scrutinize any interstate acquisition in terms of safety and soundness.

*Market Concentration. Out-of-state bank holding companies are not going to come into Kansas and divide the market into a few huge slices. In the first place, as discussed above, experience in other states shows that the market for interstate acquisitions is limited to the larger banks. In Missouri, which has had interstate banking for some years, there have been no acquisitions by out-of-state holding companies. Second, the regulators have the duty to stop undue market concentration through the antitrust laws. Third, the Kansas legislature can continue to limit the market share of any bank in Kansas; that limit is now 9% of deposits and S.B. 532 would raise that only to 15%. A bigger problem of market concentration is the insulation of local markets from competition right now. Interstate banking

may increase this competition somewhat, but that's good. Most markets will probably be unaffected.

*Competitive Equality: Toward an Even Playing Field.

Commercial banking is just about the only business that is subject to geographic Chinese walls. Credit unions are not. Savings and loans are not. Finance companies are not. Mortgage bankers are not. Insurance companies are not. Securities firms are not. Manufacturing firms are not. In order to be put on an even playing field with other competitors in the financial services industry, commercial banks need to be able to operate according to their natural marketplaces. The worst scenario is that of growing dominance of a few Kansas thrifts acquired by large out-of-state bank holding companies, under new authority granted by FIREAA. Why shouldn't Kansas commercial banks have the same opportunities to acquire and be acquired interstate as Kansas savings and loan associations or credit unions? Just as the Kansas legislature corrects the competitive inequality between national and state banks regarding unlimited branching, so should it correct the inequality between commercial banks and the rest of the financial services industry.

*The Free Market. Most Kansas bankers believe in a free market. This is the public policy behind the Commerce Clause of the United States Constitution. It is now our national policy for world trade. Those Kansas bankers who were hurt badly when their farm customers were unable to sell grain abroad as a result of the

1979 embargo should think twice about continuing an embargo against interstate banking. Kansas has a strong interest in tying itself more closely with banking organizations that are regional and national in scope. Only in this way will Kansas products and commodities get maximum penetration in global markets. Interstate banking will allow "importation" of additional banking and technical expertise.

Interstate banking will also eliminate artificial barriers in smaller natural markets. Perhaps the best example is the Kansas City area, which now contains a Chinese wall along State Line Avenue, prohibiting area banks from tapping their natural markets on either side of the state line. There is no doubt that enactment of interstate banking will lead to some acquisition activity in this market, as well it should.

I remember vividly the testimony I gave to the Kansas legislature in the early 1980's regarding the need to remove artificial rate ceilings from our usury laws. These ceilings were distorting lending and denying market realities. The Kansas legislature finally saw the light and liberalized all our usury laws in the name of free market decisions. This has had a very positive effect in the state ever since. I think there is a close parallel between imposition of numerical limits on rate ceilings and imposition of geographic limits on commercial banking activity. Both distort the free market and are ultimately self-defeating. Both may have made sense when they were originally

enacted, but they have since outlived their usefulness. Kansas thrives with free markets.

Evaluation of S.B. 532. Many of the elements of interstate banking are already in place. There are strong public policy arguments in favor of it. The precursors of interstate banking--multibank holding companies and unlimited branching--have proven to be nonevents. So it is time to pass an interstate banking bill that all Kansas bankers can live with. S.B. 532 is a good compromise bill, though I think it is extremely conservative.

S.B. 352 provides regional reciprocity with states contiguous to Kansas, plus Iowa and Arkansas; this is a big step forward, though many states have larger regions or have moved to total interstate reciprocity. S.B. 532 prohibits out-of-state bank holding companies from establishing a new bank in Kansas or purchasing any Kansas bank that has been in operation for less than five years; this limit on de novo acquisitions is protective of existing Kansas banks, though many other states do not impose it. S.B. 532 prohibits any bank holding company from controlling more than 12% of total Kansas deposits of all banks and thrifts (up from the present 9%); this puts a very strict limit on bank concentration that could result from any interstate acquisitions. By comparison, the recent Iowa bill uses a 35% deposit cap for any one holding company. Finally, the effective date of S.B. 532 is put off until July 1, 1992, nearly two years in the future; by comparison, the Iowa bill becomes effective next year. All of

these key elements of the bill make it quite conservative, something that even many opponents of interstate banking should be able to live with. If I were drafting a bill as Philosopher King, I would make it much more liberal, but S.B. 532 seems to be sensitive to political realities.

Conclusion: The Three Elements of Structural Reform

Reform of our banking structure these days is comprised of three elements: (1) authorization of multibank holding companies; (2) unlimited branching; and (3) interstate banking. The first two elements are already in place in Kansas. We have had multibank holding companies since 1985, and they have worked well, despite what the nay-sayers preached at the time of enactment. We have had unlimited branching for national banks in Kansas since last year, when federal judicial developments under the McFadden Act overrode state anti-branching laws. This session, the legislature is appropriately giving state-chartered banks competitive equality by allowing them to branch without limit. This is the second major structural change, one that has been needed for a long time. The third element is a modern interstate banking law. S.B. 532 will put this final element into place, like adding the third leg to the stool.