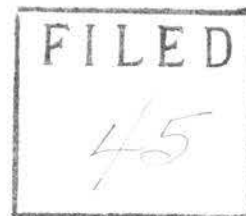


Banks and Banking: The McCawley Act does not apply to banks being liquidated.

4571
April 25, 1933



Mr. James A. Jeffries
Special Deputy Commissioner in Charge
The Bank of St. Clair
St. Clair, Missouri

Dear Sir:

This is to acknowledge your letter of April 14, 1933, which reads as follows:

"Under the recently passed bank legislation, especially the McCawley Act, would it come within the meaning and provisions of such act for the depositors of a closed bank to exercise any plan, with the concurrence of 85% of such deposits, that they might think would expedite the liquidation of such bank. For instance if 85% of such deposits would agree, by the proper method, to take 50% of their credit balances in assets of the bank, could they do so."

You state that the Bank of St. Clair is now in liquidation and you wish to know if the provisions of the McCawley act applies to a bank being liquidated.

House Bill No. 91, approved February 22nd, 1933, known as the McCawley Act, provides that a bank may authorize the suspension of payment of checks of depositors for a period of six banking days, and after said bank has pursued such a course of suspension, the State Finance Commissioner shall be immediately notified and the Finance Commissioner shall thereupon supervise the withdrawal of assets during the sixty day period that the Finance Commissioner has charge of said bank; that if he approves a contract or plan of reorganization and said plan of reorganization is entered into by depositors owning 85% or more of the deposits, then such bank shall be permitted to open. And

Mr. James A. Jeffries.

-2-

April 25, 1933

if the finance commissioner after taking possession of the bank finds that such bank should not be permitted to continue in business, then he shall proceed to liquidate "as provided by law" (Section 4 of the act).

From the foregoing it is our opinion that the bank being in liquidation no such agreement as mentioned in your letter comes under the provision of the "McCawley Act", and that said bank should be liquidated according to law.

Trusting this answers your inquiry. I am

Yours very truly,

JAMES L. HORNOSTEL.
Assistant Attorney General.

APPROVED _____
Attorney General.

JAH:MM