business without attracting a single customer who currently patronizes any of your existing competitors.

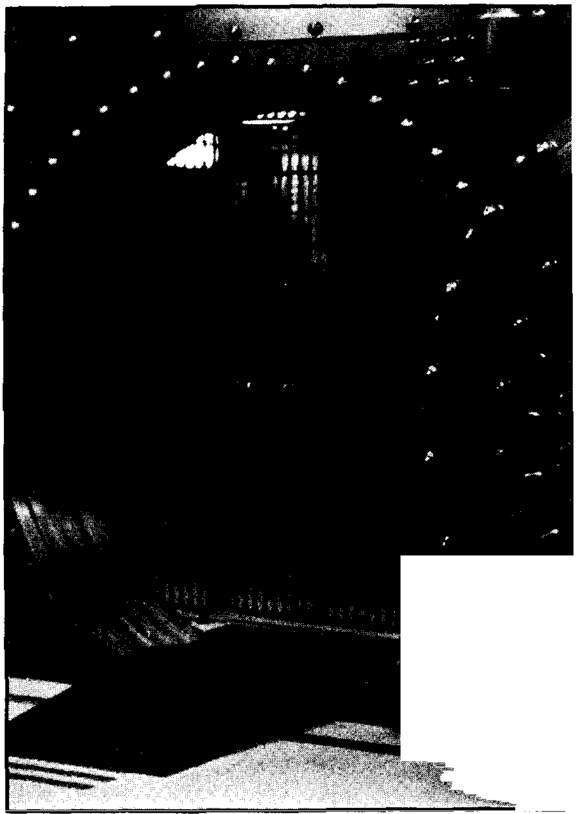
Recognizing the Herculean nature of this task, you shrug, and abandon the dreams of a lifetime, setting your sights on a more realistic entrepreneurial goal—getting the next local McDonald's franchise.

Needless to say, it does not require an advanced degree in business administration to realize that this is not how you enter the candy-store business. But this extended metaphor does illustrate the gyrations you have to go through to get one of those rare documents called a bank charter.

All this should not lead to the conclusion that bank charters are impossible to obtain—only difficult. As with so much else in life, success not only depends on who you are, but also where you are. In 1972 more than a quarter of all new banks were located in Texas and Florida—two fast-growing states which prohibit branch banking. In all, state banking commissions approved 191 new banks in 1972—the highest number in recent memory.

While policies regarding *de novo* banking vary drastically from state to state, the process is not often likely to be approved by "good government" groups. Sometimes the sweetener is campaign contributions, sometimes the magic is hiring the right law firm to prepare the application, sometimes the charter application is actually evaluated solely on its merits. While state figures on rejected applications are impossible to obtain, they would not, in any case, include the hundreds of would-be bankers who got discouraged along the way.

Statistics are better for national banks chartered by the Comptroller of the Currency. Last year, the Comptroller approved 55 new national banks—60 per cent of those that applied. Many small and medium-sized banks prefer state charters, thereby avoiding the arduous reserve requirements imposed by the Federal Reserve. Yet national chartering policy



remains particularly significant. Not only does the Comptroller often set the tone for state regulation, but national bank charters possess an aura of prestige which far outdistances their practical advantages.

Survival of the Meanest

This entire regulatory shell game has an important effect on the consumer as well as the banking community. Not only does limiting entry tend to restrict competition, but banking regulation has helped in many ways to create the grandest "old boy network" of them all, weeding out many non-banker types deemed likely to be too aggressively competitive.

Traditionally, questions like barriers to entry and their effect on competition elicit little interest outside college economics departments. So, although charters have been in the news recently, the reason has had very little to do with either the consumer or competition between financial institutions.

Bank Charters: How He Got to Do It

by Walter Shapiro

Consider this scenario: You want to open a candy store on a shady street in your home town. Nothing fancy, just the usual amalgam of paperback books, cheap cigars, magazines, Hallmark cards, candy kisses, and bubble gum. You and several friends who share your lifelong ambition to be a candy store proprietor have accumulated enough capital to rent the storefront, buy the initial inventory, and weather the expected losses of the first lean months.

At first glance, it would seem that you were in business, ready for some heart-to-heart talks with the local distributor for Topps baseball cards. Unfortunately, as plans for the grand opening are going full tilt, you discover that you must obtain a candy-store charter from either the U. S. Comptroller of Sweets or your state's Confectionaries Commissioner.

This is no Ralph Nader innovation designed to verify that both your store and inventory meet the requisite health code standards. Instead, to get a charter you have to prove that the side streets of your home town are not "over candy-stored" and that the executive management of your little enterprise "has a well-rounded candy-store background." And one other thing—the charter costs $2,500.

All these requirements seem rather expensive and time-consuming, but you've learned to live with inflation and government red tape. There's just one question—what does the phrase "over candy-stored" mean?

Although no one's quite sure, it seems that your candy store must not in any way reduce the profits of any existing candy store. It's not good enough to prove that opening your candy store wouldn't drive any of your competitors out of business or even cause them to lose money. No, what you have to demonstrate is that you will not reduce their profits. To qualify for one of these coveted candy-store charters you must demonstrate that there are hundreds of closet cigar fanciers and paper-kite devotees who are ready to come out with the opening of your emporium. In short, you must build a profitable

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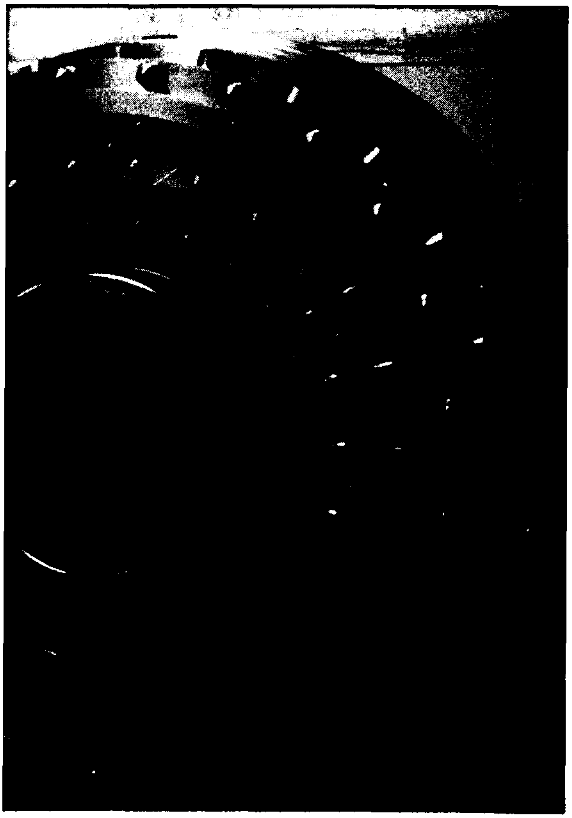

photo by Leslie Renchard Cashen

Those who have become aficionados of the Watergate affair undoubtedly remember that some of the money "laundered" in Mexico came from a Nixon campaign contribution by someone who also wanted a national bank charter.

The someone was a Minneapolis businessman named Dwayne Andreas, who gave $25,000 to Kenneth Dahlberg, Nixon's chief midwestern fundraiser. Interestingly enough, both Andreas and Dahlberg were organizers of the Ridgedale National Bank, which last August obtained a national bank charter in near-record time. Near-record time was definitely needed, since Ridgedale's final approval came just two days before the Minnesota bank commissioner was to consider a competing application. Andreas' and Dahlberg's prize was the unchallenged right to be the only bank in a giant shopping center being erected in Minnetonka, Minnesota.

The timing was somewhat less tense in late 1971 when the Hudson Valley National Bank was chartered with Robert Abplanalp, a close personal friend of Richard Nixon, as principal stockholder. Abplanalp's attorney, William Griffin, was one of the bank's organizers and the owner of $125,000 worth of stock. In 1972, Griffin was to purchase two Key Biscayne, Florida, lots from the President for $150,000. A footnote to the story is that Griffin listed his total assets as $263,000 on the bank charter application.

Everyone agrees that the Comptroller of the Currency is not generally in the business of swapping bank charters for campaign contributions, even to incumbent Presidents. And even the most cynical admit that a $25,000 contribution to the Committee to Re-Elect the President would have been a bargain-basement price for a franchise as lucrative as a bank charter. Yet the two cases are important for reasons that have little to do with Watergate or conflicts of interest.

The Comptroller's files on the Ridgedale National Bank and the Hudson Valley National Bank are unique. Their rarity is simply that charges of impropriety forced the Comptroller to make them public. The policy is simple, explained William Foster, the Comptroller's press assistant, "To get to see a bank charter file, you have to call the Comptroller a liar." Justin Watson, who was acting Comptroller until early this July, confirmed that no other files have ever been made public without a court order. Watson cited no statutory justification for keeping the rest of the files off limits. His reasons were, at best, vague, and included lines like, "To put it bluntly, we don't want anyone to come in here on a fishing trip."

Perhaps one reason the files on the Ridgedale and Hudson Valley National Banks were made public was that they provide no new information for those searching for scandal. Yet there is a fascination in the revealing glimpse they do provide of the quasi-competitive world of banking.

Population Control

In perusing the Comptroller's files, it is important to remember that his office has virtually no fixed procedures or set definitions. For example, a public hearing is never required, although the Comptroller can–and does–permit them at his own discretion. The key statutory requirement for a new bank is that "it meets the public need and convenience"–not one of the more precise legal phrases of all time. And, of course, when the Comptroller denies an application, he provides no explanation.

In the Ridgedale file, a national bank examiner reviews the competitive situation in Minnetonka: "There are several applications for new charters and relocations in the same general area. An overbanked situation could exist if more than one new charter is approved for the area." Elsewhere, the same examiner expressed the concern that "a concentration of banks in or near the [shopping] center, however, would certainly be unfortunate, and the competition, to the degree that it would probably develop, would be unhealthy. This same touching concern about the excesses of competition is reflected in a memo which Thomas DeShazo, Deputy Comptroller of the Currency, wrote for the files justifying approval of the Hudson Valley National Bank. "It is believed," DeShazo states, "the new entry would not have an adverse effect upon existing units."

"Overbanking," a word almost as mellifluous as Ron Ziegler's "inoperative" or "misspoke," is almost never precisely defined. Watson called "overbanking" any situation "where the existing competitors are not growing." But in practice it seems that "over-banking" occurs when a new bank may undermine the earnings of an existing unit or face obstacles in attaining its own rapid profitability. Of course, those doing the evaluating are bank examiners, who by reputation are not excessively predisposed toward optimism. Not surprisingly, the concept of overbanking is at serious odds with the free-enterprise rhetoric favored by the American Bankers Association. And it is certainly alien to the candy store business, where decisions about the dangers of unhealthy competition are limited to the investors who are taking the financial risk.

The Midas Touch

There are, of course, considerable differences between banks and candy stores. For one thing, banks are allowed to maintain reserves which cover only a small percentage of their actual deposits. But brokerage houses are also trust institutions, and entering the securities business only requires adequate capitalization. A better explanation is that banking's entry requirements are just another legacy of the Depression.

Virtually all the anti-competitive practices of bank regulators are justified by this fear of bank failure. Steeped in accounting and reflecting the prudence which the financial world reveres, bank examiners are far more concerned with maintaining the banking status quo than in undermining the market's stability by introducing too aggressive a competitor.

There is a bureaucratic reason, as well, for this pervasive sense of caution. The standard response to a bank failure by even the most "populist" of politicians is to berate the bank regulators for approving the charter in the first place. Even the best of Comptrollers is unlikely to be well known outside the sectarian world of banking. But let one bank fail and cries go up which make the shrieks of "Who lost China?" seem pallid by comparison.

The case of James Saxon, Comptroller of the Currency from 1961 to 1966, illustrates that there are limits beyond which even the most pro-competitive regulators will not go. Before Saxon, new federal bank charters were almost as rare as new patents of nobility. Yet by 1963 the Treasury

Department was issuing more than 150 new charters a year. As Saxon himself put it recently, "I probably made more new millionaires in those days than anyone else in the country."

Then in early 1965, came the well-publicized failure of the San Francisco National Bank. By the end of that year, Saxon had placed a moratorium on new bank charters. As a result, about half the federal bank charters issued in the last 10 years were granted by Saxon in those boom years of 1963 and 1964.

It doesn't really matter that the failure of banks like the San Francisco National is far removed from the era when "runs" were more commonly associated with banking than with baseball. Recent bank failures have in no way created panic situations. Nor have they weakened other recently chartered banks in the area.

In short, in today's economic world the fear of bank failure is grossly exaggerated. As a former Saxon associate put it, "A New England town would suffer far more acutely if its textile mill moved South than if its only bank failed." Bank failures are, of course, not without their social costs, but these should be weighted against the benefits which would be provided by greater bank competition.

In assessing the risks of bank failure it is important to remember that the American banking system is not exactly teetering on the brink of bankruptcy. In 1971, according to FDIC figures, a bank in the bottom 10 per cent of the industry in terms of earnings still made six per cent on invested capital. Less than one per cent of all established banks in the country lost money in 1971. The only industry which might even presume to rival banking as the "sure thing" of the American economy is private utilities. As one bank regulator explained, "Short of rampant dishonesty or incompetence on a scale almost defying imagination, it is virtually impossible for an established bank to lose money."

Yet even those who are passionately concerned about bank competition do not believe that chartering policies are the major question in banking. From the oak-paneled dining room at the Federal Reserve to the internal courtyards of the Justice Department's antitrust division, the hot question is branch banking. California, home of the Bank of America, is the model for unlimited branching. At the other end of the spectrum, some states like Illinois, Florida, and Texas, where small bankers still have political muscle, prohibit branching entirely. There is generally less competition in these unit banking states than anywhere else in the country.

Bankers' Hours

Many argue that there are stringent limitations to the amount of competition which can be stimulated by granting a new local charter in a community already dominated by status quo bankers—the type who believe that staying open until three in the afternoon is a major consumer innovation. Instead, the most aggressive competition is thought to be provided when a large bank is permitted to enter a new community through branching. Economies of scale have little to do with it, since middle-sized banks with about $10 million in deposits derive few competitive advantages from growing larger. The kind of things banking giants do best are generally of little importance to the average customer—unless he's playing the Zurich gold market or needs to borrow money for a new blast furnace.

The enthusiasm for branch banking does not then stem from any widespread admiration of the benefits that Chase Manhattan brings to the consumer. Rather, it is a reflection on the type of local businessmen who generally obtain bank charters. For example, a bank holding company which needs an attractive price-earnings ratio to attract Wall Street investors is likely to be far more innovative than a local group drawn together from the pillars of the Chamber of Commerce.

These feelings were underlined when Justin Watson generalized about about why bank charter applications are turned down. Surprisingly enough, inadequate capitalization rarely causes a rejection. "If we say an applicant needs more capital to get a charter, the organizers have no trouble going back and getting it," Watson said, giving an accurate assessment of the market value of the bank franchises which the Comptroller dispenses with selective generosity.

A key factor, according to Watson, is the character of the applicants. As he put it, one reason why charter requests are denied is that examiners have doubts about the "integrity" of the proposed management or they believe that the "organizers are self-serving"—as if most business ventures looked to Robert Owen for inspiration.

There is a disquieting vagueness to Watson's comments about character and integrity, especially since in many ways the Comptroller's office is more effective than character committees of local bar associations in determining who can enter the profession. Preliminary bank charters are usually granted with the stipulation "that executive management acceptable to this office will be provided."

And the Hudson Valley file indicates that the Comptroller's office does not take this responsibility lightly. (Strangely enough, there were few documents relating to personnel matters in the Ridgedale file, although the Comptroller's office claimed that it was complete.) In one memo, the Comptroller's office instructed a Hudson Valley assistant vice president, "Your employment history indicates a gap between May, 1967, and September, 1967. Please clarify." An examiner declared that the bank president "is married. . . and possesses high moral character." Chemical Bank, the current employer of the proposed president, stated that "his lending authority was $50,000, unsecured, but Chemical keeps a tight rein on lending authorities of branch personnel." There was also the reassuring word that the Hudson Valley president "is not being considered for separation in the bank's retrenchment program."

Admittedly, there are no specific examples of people being excluded

Answers to June puzzle:

A	D	D	R	E	S	S	E	D		C	I	V	I	C
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E		T		M		N				T		N		S
D	E	A	L	I	N	G		S	T	E	P	S	U	P
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A	G	O		E	R	E	C	T		T	O	P	E	R
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C	O	N	V	I	C	T	E	D		E	P	I	C	S
E		E		N		A		G		C		O		E
S	P	R	I	G		G	R	E	E	T	I	N	G	S

from banking because they failed to pass muster with the moral guardians in the Comptroller's office. Yet James Saxon admitted that "abuses in this area were always possible," and one of Saxon's former assistants suggestes that until a decade ago, monitoring like this tended to keep Catholics and Jews—not to mention blacks—out of banking. Even if religious or racial discrimination is a thing of the past, this scrutiny tends to weed out those apt to be heretics. Even if the Comptroller himself does little pruning, most would-be bankers are likely to get the message.

But this is not the only message in the Hudson Valley file. Just as pledge class pictures quickly evoke the norms of college fraternities, the file provides a clear, although depressing, portrait of those most likely to succeed at getting a bank charter.

The Pride of Yonkers

Although Yonkers is the fourth largest city in New York State and boasts nine banks with a total of 30 offices, in 1971 none were locally owned. To its credit, the Comptroller's office was sensitive to this problem; one memo even stated that "there is no real need for the proposed bank other than the fact that this is the only local bank in Yonkers." According to populist notions, a locally owned bank should aggressively cater to the needs of the average area bank depositor. Unfortunately, life—and particularly bank economics—tends to follow a logic uniquely its own.

According to the Comptroller's file, the genesis of the Hudson Valley National Bank had little, if anything, to do with the little man's financial problems. George Pacchiana, a retired construction company executive and described as the "driving force behind this bank," believed that the other Yonkers banks did not "give quick enough service." Rather than being piqued by long lines at the teller windows, Pacchiana was aggravated because with the existing Yonkers banks, "any large loans, etc., must go through the main office"—a real problem if you need $150,000 in a hurry. Interestingly enough, a recent article in the *Yonkers Herald-Statesman* reveals that Pacchiana's interest in banking also had a few "self-serving" motives. He now rents office space to his own bank for $50,000 a year.

But what really sold the bank examiners on the merits of the Hudson Valley application was that the "organizers are a substantial and influential group who—through their contacts—expect to bring close to $9 million in deposits into the bank." These pledges—which resemble nothing so much as a United Jewish Appeal bond drive—are a classic example of how things get done in America. Top award went to William Griffin, Abplanalp's attorney, who boasted that he would bring in $3 million "through his business, personal, *and political* contacts." The chairman of the board pledged $2 million on behalf of himself and his son. Another organizer chimed in with $500,000 "in deposits. . . from former clients who have promised accounts." And James F. X. O'Rourke, Yonkers GOP chairman and former mayor, estimated humbly that "he can bring in $250,000 from personal friends alone, and this does not include corporations, government agencies, and hospitals." Thus, these community-minded men guaranteed $9 million in deposits without dirtying their hands with money from the likes of you or me.

The moral which emerges from a trip through the Comptroller's files is murky. Despite Abplanalp's and Griffin's ties to the White House, the Hudson Valley National Bank is far from atypical—down to the racetrack which is now its largest depositor. The whole process points to the bleak conclusion that for the average bank depositor there is no way out. Either you're screwed by the corporate giants or the pillars of the local Chamber of Commerce. ■


CURB YOUR BEAST
DO NOT WALK ON THE PEOPLE
VINT LAWRENCE