

McDonald's Record

He Makes It An Issue--The Republicans Accept His Issue With Pleasure--There are Volumes of It The Long Crooked Trail Which Forms

---McDONALD'S RECORD---

It is Found in Connection with the First State Bank of Las Cruces, the Reform School at Springer, the State Land Leases in Which He is Personally Interested, His Pardons at the Penitentiary, His Manipulation of County Road Boards, His Expenditure of Contingent Expense Funds, His Conversion of the Sheep Sanitary Board Into a Political Machine, Why He Vetoed Certain Bills, Why He Made Some Appointments--are all in the Record--in the Public Record and Private Files and He Can Have As Much of His Record as He Desires-- Many of the Traveling Auditor's Reports are "Not Available"--but There Is Plenty Left--Plenty of

---McDONALD'S RECORD---

GOVERNOR McDONALD'S DENIAL DOES NOT SQUARE WITH HIS OWN LETTER, THE RECORD, OR THE TESTIMONY OF HIS ADVISERS AND AUDITORS.

In his keynote speech at the opening of the Democratic State Convention Governor W. C. McDonald had the following to say relative to the defunct First State Bank of Las Cruces.

"Much has been said about the failure of the First State Bank of Las Cruces. Reckless statements have been made regardless of the truth charging that this was a political bank; THAT I WAS NEGLIGENT AFTER HAVING KNOWN THAT THE BANK WAS INSOLVENT. That this bank was ever used for the benefit of the Democratic party, I challenge anyone to prove, and I DENY AS ABSOLUTELY FALSE THE STATEMENT THAT I EVER KNEW AT ANY TIME PRIOR TO THE CLOSING OF THE BANK THAT IT WAS IN AN INSOLVENT CONDITION. The records and reports are available for the proof of the truthfulness of this statement."

WHAT GOVERNOR McDONALD'S OWN LETTER SHOWS.

On the 15th day of January, 1914, Hon. Reed Holloman addressed the following letter and a copy of the following report to Gov. McDonald. Both the letter and the report show conclusively that the First State Bank was then insolvent. That the letter and report were received by the governor and given full consideration by him is shown by his acknowledgment of the same written on the 19th day of January, 1914, ten months before the First State Bank closed, which also follows and both of which letters were offered in evidence and made a part of the records when the failure of the First State Bank was under investigation.

HOLLOMAN'S LETTER TO McDONALD

Dear Governor McDonald:

I am taking the privilege of writing you regarding the condition of the First State Bank of Las Cruces. In order that you will not feel that I am presumptuous in doing this, I beg leave to state that my letter to you grows out of a controversy existing between Rome P. Donohoo, Receiver of the First State Bank of Tucumcari and the First State Bank of Las Cruces.

On October 2nd the First State Bank of Tucumcari closed its doors. It was absolutely insolvent and practically all its resources had been dissipated. Mr. Donohoo was appointed by Judge Lieb as Receiver and I was employed by him as attorney, and have acted in that capacity since that time. An investigation of the two banks show me conclusively that the original capital paid in for the First State Bank of Tucumcari was really not paid into the bank at Tucumcari but that the First State Bank of Las Cruces gave the First State Bank of Tucumcari credit for the amount being about \$16,000.00. Hugh Swift, who was the President of the First State Bank of Tucumcari, gave his personal notes to the First State Bank of Las Cruces in the sum of \$10,000.00. T. H. R. Smith,

the President of the First State Bank of Las Cruces subscribed for and held twenty-five shares of stock of the First State Bank of Tucumcari; one Fay Sperry also held stock in the First State Bank of Tucumcari. When these parties ascertained that the First State Bank of Tucumcari was not a paying institution they forced Hugh Swift to take up their stock and he paid or directed that the parties be paid for their stock out of the money held at Las Cruces belonging to the First State Bank of Tucumcari. Also Swift's personal note of \$10,000.00 was paid out of funds of the First State Bank of Tucumcari held at Las Cruces, none of this was done by the direction of or with the knowledge of the Board of Directors of the First State Bank of Tucumcari.

Subsequently I filed a suit on behalf of the Receiver against the First State Bank of Las Cruces to recover the sum which we claim to be illegally paid on the personal account of Swift. An investigation convinces me that the law was conclusive that the First State Bank of Las Cruces had no authority whatever to pay the personal indebtedness of any person out of the funds belonging to the First State Bank of Tucumcari.

At the last term of court T. H. R. Smith was indicted by the Grand Jury at Tucumcari, for embezzlement and for conspiracy to embezzle, and its attorneys filed a request with the court asking for the right to examine the books of the First State Bank of Tucumcari; that was granted with the condition made a part of the court order that we should have the right at any time to examine the books of the First State Bank of Las Cruces. This was not only made a condition by the court but was agreed to in open court by attorneys of T. H. R. Smith, president of the Las Cruces Bank. A couple of weeks ago I had Mr. J. W. McCarty appointed by Judge Lieb to examine the books of the Las Cruces Bank. He went to Las Cruces and proceeded to make the examination, but the officials of the bank refused to permit him to have access to certain books which he desired. I took the matter up with Earnest and he consented to deputize Mr. McCarty to make the investigation provided Judge Lieb requested him to do so. Judge Lieb by wire requested Mr. Earnest to make appointment, and Mr. McCarty proceeded to make the examination. I am enclosing herewith a copy of the report made by Mr. McCarty to Mr. Earnest. I obtained an order of the court on behalf of the Receiver requiring Mr. McCarty to turn over to the Receiver his report of his investigation; that was done as Mr. Earnest requested that the report not be divulged to any person unless by order of the court. Mr. McCarty does not know that I am sending you this copy, as I am doing it on my own volition.

I think the above statement will show that the Receiver of the First State Bank of Tucumcari, as Receiver, has a very vital interest in the condition of the First State Bank of Las Cruces, for if we are successful in obtaining judgment which we expect to be, we desire that we be able to collect the same, and I think that a perusal of Mr. McCarty's report will show conclusively that the First State Bank of Las Cruces is at this time practically in an insolvent condition. Not only is it in an insolvent condition, but it seems to be run for the interest of a few persons alone, chief among whom are the President of that Bank, T. H. R. Smith and his immediate family.

Mr. McCarty's report shows that T. H. R. Smith owes the bank at Las Cruces over \$6,000.00. I have made considerable investigation as to the financial responsibility of Mr. Smith for the reason that he owes the Tucumcari bank more than \$2,600. My information that has been furnished me by parties who should be in a position to know, convinces me that the notes are not worth the paper on which they are written. Again the President of the Las Cruces Bank, T. H. R. Smith, is indebted directly and indirectly as endorser, in the sum of over \$11,000.00 to the Las Cruces Bank, and he is also indebted to the First State Bank of Tucumcari, including interest, court costs and all liability on certain notes in the sum of over \$10,000.00. I have information that he is in litigation at Muskogee, Oklahoma with some person claiming judgment for \$50,000 and that there is a probability of his recovering the same, and that if he does receive judgment the judgment will likely be paid; in that case he will probably be solvent, but as the matter now stands his solvency depends on the uncertainty of a law suit.

That there is an absolute violation of the State laws is manifest from the report. Under our law Section 253 of the Compiled Laws, the stockholders collectively can not be indebted to the bank either as personal security or otherwise to an amount exceeding \$12,000.00, and we would see from the report that they are indebted to the bank in more than twice that amount.

Again, some of the loans seem to my mind to be greatly excessive. I do not find anything in the laws of banks of discount and deposit limiting the amount of loan other than to stockholders and probably a large loan to a responsible person could not be considered excessive, but under the law regarding savings banks, Sec. 276 of the Compiled Laws, being a later law than the one in which this bank was incorporated, it is evident that the legislature thought that no one person should be permitted to borrow money exceeding ten per cent of the capital stock actually paid in. While I stated that probably that law does not apply to this bank, yet it is manifest that some of the loans are excessive and they apparently have no security.

Again it is apparent that there has been considerable jugglery regarding the amount of cash on hand and in the bank. The individual deposits and certificates of deposit amount to over \$170,000.00; bills payable \$42,000.00; Cashier's checks, \$2,400.00; this runs the amount of indebtedness that can be immediately demanded considerably over \$200,000.00, and yet the report shows that there is really not over \$4,000.00 cash to pay these claims.

I do not care to further discuss the report as you can by a casual personal disclose far more than I have suggested, but I do believe that it is in the interest of all of the creditors of the First State Bank of Las Cruces that the Traveling Auditor should immediately take such steps as are required to counsel them to make good the impairment of the capital stock of the Las Cruces bank, collect or charge off a large part of their notes and reduce their excessive loans.

I hope that I have not encroached upon the jurisdiction of any other person in personally addressing this letter to you. I feel that this matter or any matters of this character is of such serious importance to the people that it should be called immediately to the attention of the Chief Executive of the State. It is apparent to me at least that the Las Cruces Bank is being exploited in the same manner exactly as was the First State Bank of Tucumcari, and being a stronger institution and being located in the field of exploitation longer than the Tucumcari bank, but it is evident that unless some drastic measures are taken that it will run the same course ultimately as did the Tucumcari bank with far more disastrous results.

I have great confidence in Mr. McCarty's report as I do not hesitate to say that he is one of the most competent accountants with whom I ever had any dealings, and all who know him certify to his absolute honesty and impartiality.

I hope that you will not consider me presumptuous in any way in putting this matter directly before you, as I feel that you should know the condition at once.

Hoping to hear from you regarding this matter and with kindest personal regards, I beg to remain,

Very truly yours,
REED HOLLOMAN

REPORT OF J. W. McCARTY

Tucumcari, N. M.
January 12, 1914.

Howell Earnest, Esq.,
Traveling Auditor and Bank Examiner,
Santa Fe, N. M.

Sir:

As requested by you, I made an examination of the First State Bank of Las Cruces, Las Cruces, N. M., January 10, 1914.

Following is a statement of condition of this bank at the close of business January 9, 1914.

Assets.	
Loans & Discounts	\$101,400.00
Overdrafts	122,666.06
Furniture and Fixtures	67,237.75
Real Estate	10,000.00
Court costs	50.05
Expense	752.93
Interest Paid	600.52
Tex. Bank & Tr. Co. El Paso.	319.51
City Natl. Bank	93.91
Toyah Valley Bank, Balmorhea, Tex.	3428.72
First State Bank, Tucumcari,	10022.86
First Tr. & Savgs.	323.25
Collection Acct.	2128.73
Cash	11,312.50
Total	\$249,594.78
Liabilities.	
Capital	\$30,000.00
Surplus	3,000.00
Undivided profits	43.39
Int. & Discount	123.11
Exchange	6.05
Ind. depositors	13,601.79
Cert. deposit	3,447.94
Cashiers checks	2,447.38
Bills Payable	4,200.00
Total	\$249,594.78

Not having the authority to convene the Board of Directors, I had no way of arriving at the actual value of all the notes and this report is based on my own actual knowledge of the assets.

There are numerous excessive loans; Following is a list of notes which I would suggest be reduced within the next sixty days:

Clary Hugh	\$3750.00
Llewellyn M. O.	7000.00
Norwood L. M.	5000.00
Sperry Fay	12470.51
Smith L. B.	4150.00
Smith C. H. H.	6020.60
Smith T. R. H.	9000.00
Tankersley E. M.	5000.00
Thompson M. B.	4000.00

The following notes are bad and uncollectible and should be charged off:

Hugh Swift	\$7000.00
Menefee G. N. & Hugh Swift	5000.00
Evans Geo. W. Jr.	1000.00

I believe that the following notes are doubtful and cannot be collected in full and that the loss on them will be at least 50%.

Miller J. P.	\$1000.00
Smith C. H. H. total	6020.60

The losses in the Loans and Discounts are at least \$16,000.00.

I would suggest to Mr. T. R. H. Smith, the president of

this bank, that he confine his loans to the community in which he is doing business; that he not grant such large lines of credit to people to whom he is indebted for some of his larger deposits. I should criticize severely his loans to himself, family and immediate relatives and should insist that they be taken out of the bank or reduced considerably at any rate. I find that his mother, Mrs. L. B. Smith owes \$4150.00, his brother C. H. H. Smith, \$6020.60 and his own notes amount to \$9000.00, a \$4500.00 note being in the loans at the date of my examination and another note of his for like amount carried in the cash and which went into the loans January 10th. Mr. Smith insists that the notes are good but I do not think they are desirable loans.

I should insist that the overdrafts be kept down, I think the list of overdrafts which are made a part of this report can be collected but 40% of a bank's capital in overdrafts should not be tolerated.

The Court Costs, Interest Paid and Expenses Accounts are in excess of the profits \$1370.90 this is caused by not charging the December expenses until after the first of January, thereby making a better statement Dec. 31, 1913.

The account with the Toyah Valley Bank, Balmorhea, Texas is carried at \$3428.72, this account was opened Feb. 1st, 1913, with a deposit of \$5740.45 and has not changed in the past year excepting the interest credits and a charge of \$2500.00 Nov. 12, 1913, this charge slip is carried in the cash thereby showing the cash on hand Dec. 31, 1913, to better advantage.

The account with the First State Bank, Tucumcari, \$10022.86 is an account with defunct bank. I am in a position to know that this bank will not pay over 20 per cent to its creditors if this claim of the Las Cruces bank is a just one. I will say that the Receiver of the First State Bank, Tucumcari, is suing this bank for approximately \$17000.00, that I firmly believe that a judgment will be obtained against this bank for about \$10000.00, if this should occur this asset of the Las Cruces bank will be cancelled and they will have an additional liability of \$10000.00 and in such event the bank will be insolvent.

The account with the First Trust and Savings Bank, Tucumcari, \$323.25 should be charged to expense, this account is expense incurred in obtaining a character for a Trust Co., in Tucumcari and the above Trust Co., is not operating.

The Collection account of \$2128.73 is composed mainly of a collection on L. B. Smith, Marietta, Okla., for \$2127.23 charged out Nov. 22, 1913 and I should insist that some disposition should be made of it immediately.

The cash is as follows:

Currency	\$1766.00
Gold	165.00
Silver	1093.15
Cash Items	1288.35
Note T. R. H. Smith	4500.00
Charge slip on Balmorhea, Tex.	2500.00
Total	\$11,312.50

In the cash items of \$1288.35 is a check for \$452.00 paid by the bank for a saloon license which the Cashier advises me was necessary to protect their interest. This item should be taken out of the cash.

I made a list of the outstanding Certificates of deposit and Cashier checks and these accounts are in balance and the lists are made a part of this report and enclosed herein.

There is outstanding \$42000.00 bills payable of this bank which are issued to the following:

Hager W. N. \$25000.00 Amount of notes pledged as collateral \$35056.56
Tex. Bank & Tr. Co. El Paso 10000.00. Amount of notes pledged as collateral \$15168.48.
City Natl. Bank El Paso \$7000.00. Amount of note as collateral \$10724.82.

The actual cash and sight exchange is about \$10193.00 which makes this bank's reserve about 7 1/2%.

Conservative estimate of losses:
Loss in Loans and Discounts, \$16000.00
60% loss in account with First State Bank, Tucumcari, not considering suit of Receiver, 6000.00

The Surplus is impaired \$1644.20, expenses in excess of earnings. Considering the above I would suggest calling a special session of the Board of Directors and levy an assessment of 75% on the Capital Stock. I am sure that there are other losses in the loans which will show up when these loans are examined in connection with the Board of Directors.

Respectfully submitted,
J. W. McCARTY,
Examiner.

McDONALD'S LETTER TO HOLLOMAN

"Santa Fe, N. M., January 19, 1914.

My dear Judge:—

I have your of the 15th, which I have read over carefully, also the report of the bank that you sent me. I quite well understand the importance of this case and have already taken it up with the Traveling Auditor. Some action will be taken very shortly toward an adjustment that will put the bank in better shape, if it is possible to accomplish that purpose. I assure you I appreciate your full statement of the case, as it gives me a better understanding than I have ever had before. This matter has been up for some time and I hope for a satisfactory solution or arrangement very shortly.

Sincerely yours,
W. C. McDonald,
Governor."

MR. EARNEST'S TESTIMONY

Governor McDonald's Traveling Auditor, Howell Earnest testified at the investigation in part as follows:

(Questions by Attorney Holloman answers by Mr. Earnest.)

Q. Now, then, you did go to Las Cruces in January, 1914?

A. Yes, sir, January 30th.

Q. What was your purpose in going there?

A. I went there for the purpose of ascertaining, if possible, the condition of the bank, the condition of the paper as shown on the combined report of the two examinations, the examinations made by Mr. Wooters and Mr. McCarty.

Q. The Governor went with you?

A. Yes, sir, he was there.

Q. Did the Governor often go with you in investigating the banks?

A. No, sir.

Q. Is that the only time he ever did?