

individual depositors cannot lawfully be made up nor paid from the appropriation of money that belongs to all of the people of the state, that belongs to all of the people of the state. Now that is what we are doing. We are taking money that belongs to all of the people of the state and doing this. Now I feel the compassion of these people. I have received a lot of phone calls and letters that weren't very congratulatory but all I am saying is the same thing happened back in the old days, tried the same thing, and it was declared unconstitutional and the district courts said, no. Now there is another facet to this. There was also the Nebraska State Board of Agriculture and it was a corporation organized by an act of the Legislature and it was held to not be an instrument of the state. This conclusion was reached in spite of the fact that the corporation was partially funded by the Legislature and was immune from state taxation by statute. First, like the NDIGC, the Directors of the Board of Agriculture were selected from within the corporation in the same manner as private corporation directors. The Board of Agriculture, like the NDIGC, did not comply, did not comply with Article IV, Section 1 of the Nebraska Constitution which requires that the head of the executive department should be appointed by the Governor with the consent of the Legislature. Second, neither the Board of Agriculture nor the NDIGC complied with various funding restrictions imposed by the Constitution on state agencies. For example, funds were neither paid into the State Treasury nor paid out only after getting a state warrant. Instead funds were collected and disbursed in the same manner as a private corporation. The court then focused on the issue of whether the fact that the Board of Agriculture served a public purpose should modify its conclusion and it found that it should not. But a corporation, now NDIGC was a corporation. Now a corporation organized to promote objects of a public nature does not necessarily deprive it of its private character. For instance a bank created by the government for its own use and whose stock is exclusively owned by the government is in the stricter sense a public corporation, but a bank whose stock is owned by a private person is a private corporation although it is created by the government and its objects and operations partake of a public nature. Now, Mr. Domina of the Attorney General's Office stated the NDIGC is by virtue of its nature...a statutory existence...a private corporation formed or controlled, operated for the benefit of its members. So what I am saying to you this morning...