

July 8, 1946.

Honorable Paul M. Herzog, Chairman,
National Labor Relations Board,
Washington, D. C.

My dear Mr. Herzog:

We understand that in connection with a petition for certification of representatives filed by the Office Employees International Union, A. F. of L., with respect to the employees of the Federal Reserve Bank of Dallas, your Board is considering the question of the application of the National Labor Relations Act to the Federal Reserve Banks, and a representative of your Board has advised us that the Board of Governors may submit its views on the question.

The Board of Governors feels strongly that the National Labor Relations Act, in view of the express exemption of the United States from the application of the statute, was not intended to apply and does not apply to the Federal Reserve Banks. I am enclosing herewith a memorandum stating our views upon the question in more detail.

We appreciate the opportunity afforded us to submit this expression of our views in this matter.

Sincerely yours,

(Signed) M. S. Eccles

M. S. Eccles,
Chairman.

Enclosure

THE NATIONAL LABOR RELATIONS ACT AND THE
FEDERAL RESERVE BANKS

The question has arisen whether the National Labor Relations Act is applicable to a Federal Reserve Bank so as to give jurisdiction under that Act with respect to relationships between the Reserve Bank and its employees.

Section 2 of the National Labor Relations Act defines the term "employer" to include "any person acting in the interest of an employer, directly or indirectly, but shall not include the United States, or any State or political subdivision thereof * * *."

It is submitted that the Act does not apply and was not intended to apply to a Federal Reserve Bank for the following reasons:

(1) Under the express terms of the Federal Reserve Act, the Board of Governors of the Federal Reserve System was created as the agency of Congress which is charged with the responsibility of approving all compensation of directors, officers and employees of Federal Reserve Banks, of exercising general supervision over such banks, of examining them at least once a year, and of making rules and regulations necessary to enable the Board effectively to perform all such functions.

(2) Federal Reserve Banks are public institutions set up by Congress to perform governmental functions in the national interest, including their important operations in the statutory capacity of fiscal agents of the United States. The Reserve Banks as instrumentalities

and agencies of the United States come within the exemption of the United States from the provisions of the National Labor Relations Act.

DESCRIPTION OF FEDERAL RESERVE BANKS
AND RELATIONSHIP TO BOARD OF GOVERNORS

Before specifically discussing the points mentioned above, it may be appropriate to refer briefly to some of the more important characteristics of the Federal Reserve Banks as provided by law. The Federal Reserve Banks were organized pursuant to the Act of Congress approved December 23, 1913, known as the Federal Reserve Act. The purposes of the Federal Reserve Act, as stated in its preamble, are "To provide for the establishment of Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes". All of the powers of the Federal Reserve Banks, as well as limitations upon their powers, are derived from Congress. They were not chartered under State law as are a number of the so-called Government corporations, but were organized pursuant to direction of Congress. The guiding principle of Federal Reserve policies and operations is, as indicated in various provisions of the Federal Reserve Act, the accommodation of commerce and business and the maintenance of sound credit conditions. Under this principle, the powers of the Reserve System are used in such a way as to contribute to the continuous employment of the nation's productive resources and to diminish disturbing fluctuations in the volume of business.

Composition of the Federal Reserve System. - The Federal Reserve System consists of the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") as the supervisory body in Washington, the twelve regional Federal Reserve Banks, and the member banks of the Federal Reserve Banks, which comprise all national banks and such State banks as apply for and are admitted to membership. In addition, the Federal Open Market Committee, consisting of the members of the Board and Presidents of five of the Federal Reserve Banks, regulate and direct the purchase and sale by the Federal Reserve Banks in the open market of Government securities and other obligations pursuant to specific provisions of the Federal Reserve Act under which all such operations are to be conducted in accordance with a general policy laid down by Congress. The Federal Reserve Banks are thus integral parts of a system created by Congress to carry out central banking policies.

Ownership Role of the United States in the Federal Reserve Banks. - Although the law requires every member bank to hold stock in the Federal Reserve Bank of its District in an amount equal to a certain percentage of the member bank's capital stock and surplus, this does not give and was not intended to give the member banks any voice in the operations of the Reserve Bank. The stock may not be sold,

transferred or hypothecated, and the only privileges accruing to a member bank from the stock are the right to receive a cumulative statutory dividend of six per cent per annum and to cast one vote, regardless of the number of shares held, in the election of two of the nine directors of the Reserve Bank. The stock subscription made by a member bank is in effect an enforced contribution by it to the capital of the Reserve Bank.

Any surplus remaining upon liquidation of a Federal Reserve Bank, after payment of debts and dividend requirements, must, under the law, be paid to the United States. In 1933, one-half of the surplus of each Federal Reserve Bank, about \$139,000,000 in all, was appropriated by Congress to furnish part of the capital of the Federal Deposit Insurance Corporation. Thus, while the member banks own the Federal Reserve Bank stock, their position is similar to that of a holder of bonds or preferred stock rather than of common stock, as the entire residuary interest and ownership of the Reserve Banks is in the United States. The United States occupies a position which as a practical matter is analogous to that of owner or common stockholder of the Reserve Banks and the Board is the agency of the United States Government entrusted by law with the responsibility for effectuating the control inherent in this residuary ownership.

Directors of Federal Reserve Banks. - Each Federal Reserve Bank has a board of directors consisting of nine directors, six of whom are elected by its member banks (the six being elected by three groups

of member banks so that each such bank has the right to vote for two). The other three directors, including the chairman and deputy chairman, are appointed by the Board. Of the six directors elected by the member banks, three are required to be representative of the stockholding banks, and three are prohibited from being officers, directors, or employees of a bank. The three directors appointed by the Board, likewise, may not be officers, directors, employees, or stockholders of a bank. One of these three directors must be designated by the Board of Governors as chairman of the board of directors and Federal Reserve Agent, and in the latter capacity he is the official representative of the Board of Governors at the Bank. A second of these three directors must be designated as deputy chairman. Thus the directors of a Federal Reserve Bank differ considerably from the directors of a private corporation, since six of the directors are prohibited from having any connection with the management of the stockholding institutions.

Taxation of Federal Reserve Banks. - Under the law the Federal Reserve Banks are exempted from the payment of Federal, State and local taxes except taxes upon real estate.

Supervision of Federal Reserve Banks by Board of Governors. - In addition to the function of the Board in approving the compensation of employees of the Federal Reserve Banks as discussed hereafter, the Board has numerous other powers with respect to the Reserve Banks. It is required to exercise general supervision over the Reserve Banks and

it makes examinations of each Federal Reserve Bank. It must approve the appointment by the board of directors of each such Bank of its President and First Vice President. It issues regulations with respect to the discount and purchase operations of the Reserve Banks, their relationships with foreign banks and bankers, their check collection functions, and other operations. The Board has the power to suspend or remove, for cause, any officer or director of a Federal Reserve Bank, and also the power to suspend the operations of a Reserve Bank and to liquidate it for violation of law. Since the Board is an establishment of the United States, whenever it exercises any of these powers it is the Government itself that is taking the action.

Approval of Compensation and Benefits of Federal Reserve Bank

Employees. - The Federal Reserve Act provides that "any compensation that may be provided by boards of directors of Federal Reserve Banks for directors, officers or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System".

This statutory function of the Board of approving salaries of officers and employees of Federal Reserve Banks is scrupulously carried out; the salaries of officers are approved on an individual basis by the Board and salaries of employees are approved through the operation of a personnel classification plan approved by the Board for each Federal Reserve Bank, which establishes a maximum salary for each position. Under this plan, a Reserve Bank may not pay an employee a salary in excess of

the maximum for the position without the specific approval of the Board. Annually, each Federal Reserve Bank submits for the review of the Board salary schedules of bank employees; and, in the course of examinations of the Federal Reserve Banks, the Board's staff reviews the pay rolls of the Reserve Banks to see that salaries paid are in conformity with the action of the Board in the matter.

The compensation of Federal Reserve Bank employees is, however, by no means the only matter affecting the employees of the Federal Reserve Banks which must come before the Board of Governors for approval. Such matters as retirement and death benefits of employees, insurance and medical and hospital benefits for them, benefits upon termination of employment, plans for certain educational benefits, and other related expenditures are approved by the Board in accordance with System policies. In fact, any substantial benefits that may be provided to such employees must be considered by the Board.

Since the compensation and other benefits of the Federal Reserve Bank employees are determined finally by action of the Board, negotiations between a Federal Reserve Bank and its employees with respect to these matters could not be effective in producing any final results. Such questions must be submitted to and considered by the Board in Washington.

The Board is, of course, a part of the United States Government. The statute provides that the Board shall consist of seven members ap-

pointed by the President by and with the advice and consent of the Senate. Its members are thus public officers of the United States. It has been held by the Attorney General to be an establishment of the United States (30 Op. Atty. Gen., p. 308). Being "the United States", the Board is expressly exempted from the provisions of the National Labor Relations Act.

Since the Federal Reserve Banks are not free to fix the salaries of their employees except with the approval of the Board of Governors, it would be futile to require the Federal Reserve Banks to engage in collective bargaining. Obviously it was not intended by Congress that the Board of Governors, the final arbiter on the matter of compensation and related matters, should participate in such collective bargaining. Both the Board and the Banks would be placed in an impossible position were the coverage of the National Labor Relations Act extended to the employees of the Reserve Banks. Moreover it would nullify the present provisions of the Federal Reserve Act with respect to salary approval by creating a conflict between the Federal Reserve Act and the National Labor Relations Act. Congress foresaw problems of this kind when it made provision for the exemption of the United States. The National Labor Relations Act, a general statute, must be construed so as not to conflict with the Federal Reserve Act, which specifically controls the determination of the compensation of the employees of the Federal Reserve Banks. The Federal Reserve Act is for this purpose a special Act which must be considered an exception to the general statute, even though the latter were later enacted. See 59 C.J. 1057; 50 Am. Jur. 562.

GOVERNMENTAL FUNCTIONS OF THE FEDERAL RESERVE BANKS
INCLUDING OPERATIONS AS FISCAL AGENTS OF THE UNITED
STATES

As pointed out, negotiations regarding compensation and other benefits of Federal Reserve Bank employees cannot be effective unless the results are approved by the Board, which is a part of the United States. Moreover it is clear that the Federal Reserve Banks themselves must be regarded as a part of the United States for the purposes of the National Labor Relations Act and therefore as exempt from it. This is true because of the public nature and important governmental functions of the Reserve Banks, including their operations in the capacity of fiscal agents of the United States under statutory direction of Congress. The performance of these various important responsibilities by the Federal Reserve Banks is vital to the effective functioning of our credit system and the financial operations of the Government.

Functions of the Federal Reserve Banks. - The Federal Reserve Banks are not private institutions organized for profit. They are essentially public in character and are operated for public or governmental purposes in accordance with the mandate of Congress.

The most important functions of the Federal Reserve Banks are carried on in the field of national credit and monetary control. One of these functions is the so-called open market operations--that is, the purchase and sale of Government securities under the direction

of the Federal Open Market Committee, which was created by Congress and consists of the members of the Board and five representatives of the Federal Reserve Banks. The law requires that these open market operations "shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country" and also that "no Federal Reserve Bank shall engage or decline to engage in open market operations * * * except in accordance with the direction and regulations adopted by the Committee". The Federal Reserve Banks are also required to establish rates of discount, subject to review and determination of the Board, which they charge in making loans or discounts, and the law requires that such rates "shall be fixed with a view of accommodating commerce and business."

Federal Reserve Banks, through the issuance of Federal Reserve notes, furnish the bulk of the currency now in use by the public. These Federal Reserve notes are under the law "obligations of the United States". As of May 22, 1946, the total amount of currency in circulation in the country was \$27,961,000,000, of which Federal Reserve notes constituted \$23,728,000,000.

The Federal Reserve Act provides in section 4 that the board of directors of a Federal Reserve Bank "may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and

accommodations as may be safely and reasonably made with due regard for the claims and demands of other member banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry and agriculture". It is clear from this provision of law that Reserve Banks make discounts and advances not for the purpose of making profits or obtaining revenue but in the exercise of the governmental function of maintaining sound credit conditions and accommodating commerce, industry and agriculture.

Under the law the Federal Reserve Banks hold the reserve balances of their member banks and enforce the reserve requirements prescribed by the statute. They likewise are instruments through which the Board of Governors enforces its regulations (T, U and W) relating to the extension of credit for the purchasing or carrying of securities registered on national securities exchanges and relating to the extension of consumer credit. These law enforcement functions are all obviously governmental functions performed for the benefit of the public and not for the benefit of banks or of any private segment of the community.

The governmental nature of the Federal Reserve Banks is emphasized also in the supervisory and examination functions which they exercise with respect to State member banks of the Federal Reserve System. Similar functions are performed by the Comptroller of the Currency, by the Federal Deposit Insurance Corporation and by the Banking Departments of the various States

with respect to banking institutions under their respective jurisdictions. Periodic examinations are made by the Federal Reserve Banks of their State member banks with examiners approved by the Board of Governors, and the Reserve Banks maintain a continuing supervision of these member banks on the basis of these examinations and other reports obtained from the member banks.

During 1945, Federal Reserve Banks handled 1,341,000,000 checks exclusive of Treasury checks. Many of these, of course, were checks payable to the United States for which credit was given by the Reserve Banks in the Treasurer's Account. They received and counted more than 3,000,000,000 pieces of paper currency and 4,500,000,000 coins, in addition to tremendous operations in collecting so-called noncash items and handling coupons from bonds held in safekeeping. Before the Federal Reserve Banks were established, such currency and coin functions were performed by the Treasury. There was not at the time an adequate system for the collection of checks and one of the reasons for the establishment of the Reserve Banks was to provide a satisfactory mechanism for this purpose.

No attempt has been made in the above paragraphs to describe fully or in detail the various public functions performed by the Federal Reserve Banks, but what has been said is sufficient to demonstrate beyond question the public nature and governmental character of the operations and functions of the Federal Reserve Banks. They are functions

performed for the sovereign, the United States, and are functions which, but for the Federal Reserve Banks, the sovereign would have to perform in its own name or through other similar instrumentalities.

Fiscal Agency Operations of the Federal Reserve Banks. -

Federal Reserve Banks as fiscal agents of the United States play a vital role in the handling of the public debt and in carrying out other Government financial operations. Section 15 of the Federal Reserve Act provides that monies held in the general fund of the Treasury "may, upon the direction of the Secretary of the Treasury, be deposited in Federal Reserve Banks, which banks, when required by the Secretary of the Treasury, shall act as fiscal agents of the United States, and the revenues of the Government or any part thereof may be deposited in such banks, and disbursements may be made by checks drawn against such deposits."

Various other statutes provide for the Federal Reserve Banks acting as fiscal agents of the Reconstruction Finance Corporation, the Federal Home Loan Banks, the Federal Intermediate Credit Banks, the Commodity Credit Corporation and similar institutions, as well as for the War and Navy Departments.

By Act approved May 29, 1920, Congress repealed the laws providing for subtreasuries of the United States and authorized the Secretary of the Treasury to discontinue them. The law also authorized the Secretary to transfer their duties and functions to the Treasurer of the United States and to the mints and assay offices, and to utilize the

Federal Reserve Banks as depositaries and fiscal agents of the United States for the purpose of performing any or all of such duties and functions. Pursuant to this authority, the Secretary of the Treasury, through regulations issued during 1920 and 1921, discontinued the sub-treasuries, transferred some of their functions to the Treasurer and the mints and assay offices and provided that certain other duties and functions of the subtreasuries would be performed by the Federal Reserve Banks. (See Departmental Circulars of the Treasury Department for 1920 and 1921.)

Pursuant to these various statutory provisions, an enormous volume of transactions is carried on through the Federal Reserve Banks as agents for the Government. They carry the principal deposit accounts of the United States Treasury and handle much of the work entailed in issuing and redeeming the tremendous volume of Government securities such as has been necessary in the financing of the war. The Government is continuously receiving funds through taxation and otherwise in all sections of the United States and is spending them for its many governmental purposes in all parts of the country. Governmental receipts are deposited in the Federal Reserve Banks for the credit of the Treasurer of the United States, and these funds are disbursed by checks drawn upon the Treasurer.

Checks drawn upon the Treasurer of the United States are handled by the Federal Reserve Banks in two ways: Some of them, the

paper checks, are presented to the Federal Reserve Banks and forwarded by them to the Treasury Department in Washington for final payment. Others, the so-called "punch card" checks, are presented to the Reserve Banks and actually paid by them; they are not sent to the Treasury Department for examination or payment.

Beginning in 1940, transactions involving property in this country in which any of the Axis countries or occupied countries had an interest were prohibited except as authorized by the Treasury Department. These Foreign Funds Control activities of the Treasury, including the issuance of licenses for transactions in blocked accounts, have in large measure been handled by the Federal Reserve Banks as fiscal agents of the United States.

Perhaps the most important aspect of the services of the Reserve Banks as agents of the Government is in connection with the public debt. When a new issue of Government securities is sold by the Treasury, the Reserve Banks receive the application of banks, dealers and others who wish to buy, make allotments of securities in accordance with general instructions of the Treasury, deliver the securities to the purchasers, receive payment for them, and credit the amounts received to the Treasurer's Account. The Reserve Banks also redeem securities as they mature, pay coupons representing interest on such securities, make exchanges of denominations or kinds, handle transfers

and conversions, hold United States savings bonds in safekeeping for owners without charge, and perform many other similar functions in servicing the Government debt.

Magnitude of Fiscal Agency Operations. - Some idea of the magnitude of the fiscal agency operations of the Federal Reserve Banks for the Government may be found in the fact that during the calendar year 1945, when there was an average number of employees of 23,210, 50 per cent of the salaries of such employees was paid to those engaged in fiscal agency operations. The number of employees engaged in such operations constituted 52 per cent of the average number of employees on the banks' payroll. The Federal Reserve Banks were reimbursed for 89 per cent of the salaries of their employees engaged in fiscal agency operations. The bulk of the remainder of their expenses was obtained from the income derived from their open market operations in Government securities pursuant to the directions of the Federal Open Market Committee, a statutory body created by Congress.

During 1945, a total of 382,068,000 pieces of Government securities was issued, exchanged, or redeemed by the Federal Reserve Banks, 18,292,000 coupons representing interest on the public debt were paid, 233,021,000 Government card checks were paid, and 107,213,000 paper checks were forwarded to the Treasury Department for final payment. 60,602,000 ration checks were handled and forwarded to the Office of

Price Administration. At the end of December 1945 the Federal Reserve Banks held 4,607,000 United States savings bonds in safekeeping for owners. These were in addition to numerous other operations as fiscal agents.

Since the functions of the Federal Reserve Banks, including their fiscal agency operations for the United States, are governmental functions, it must be recognized for the purposes of the National Labor Relations Act that they are a part of the United States in performing these operations. These fiscal agency operations are pursuant to specific directions of Congress and are operations of the United States itself. The Federal Reserve Banks in performing these functions are analogous to subtreasuries of the United States and have been so since 1920, when the subtreasuries were abolished and their functions transferred to the Federal Reserve Banks.

Effect of Possible Federal Reserve Strike upon Government. -

If negotiations under collective bargaining with Federal Reserve Bank employees should fail to bring about agreements on all occasions, strikes or work stoppages might well occur. Such strikes would, it is submitted, be strikes against the United States with disastrous consequences to the operations of the Government. If a strike should occur at a time when the Treasury was engaged in a drive for raising

funds through the sale of securities, such as the War Loan Drives during the recent war, or during refunding operations, the public debt transactions of the Government would be interrupted to the serious disadvantage of the Treasury and the public.

Not only would public debt transactions be held up in the event of a strike but the payment of checks issued by the Treasury which are presented to the Reserve Bank or Banks affected would be stopped or greatly delayed. More important, however, is the fact that checks drawn in favor of the Government could not be processed through the Reserve Banks and as a result the flow of revenues into the Treasury would be seriously interrupted.

FEDERAL RESERVE BANKS ARE INSTRUMENTALITIES OF THE
UNITED STATES AND AS SUCH EXEMPT FROM THE NATIONAL
LABOR RELATIONS ACT

The courts have frequently recognized the Federal Reserve Banks as agencies or instrumentalities of the Government. In Federal Reserve Bank of Minneapolis v. Register of Deeds, 288 Mich. 120, 284 N.W. 667, the Supreme Court of Michigan, in holding that a real estate mortgage given to a Federal Reserve Bank to secure a loan from it was exempt from a State mortgage tax, said: "The Federal Reserve Bank is an

operating agency of the Federal Government. Its creation was to supply a need of the national Government." In Raichle v. Federal Reserve Bank of New York, 34 Fed. (2d) 910, 916 (C.C.A. 2nd 1929), a suit brought to enjoin the Federal Reserve Bank of New York from taking certain actions with reference to open market operations and discount rates, the court said that "the Bank is, as to the matters complained of here, a governmental agency under the direction of the Federal Reserve Board." The Commissioner of Internal Revenue held in a ruling dated October 25, 1944, that the Federal Reserve Banks are exempt from the taxes imposed by Titles VIII and IX of the Social Security Act, the Federal Insurance Contributions Act, and the Federal Unemployment Tax Act, since these acts contain an exemption of "service performed in the employ of the United States Government or of an instrumentality of the United States".

In Federal Reserve Bank of Richmond v. Kalin, 77 Fed. (2d) 50, 51 (C.C.A. 4th 1935), with reference to the jurisdiction of the United States Courts over actions involving Federal Reserve Banks, Mr. Justice Parker stated:

"The language of this provision is so clear as to leave no room for construction or interpretation. The act of which it forms a part extended the control of the federal government over the operations of the Federal Reserve Banks; and it was

doubtless the intention of Congress to grant full right of recourse to the federal courts to these institutions, which had become important agencies of the federal government in its control of banking and currency."

In Armand Schmoll, Inc. v. Federal Reserve Bank of New York, 37 N.E. (2d) 225 (Ct. App. of N.Y. 1941), cert. den. 315 U.S. 818, with regard to the statutory authority of the Federal Reserve Bank of New York under section 522(c) of the Tariff Act of 1930 to certify the buying rate for cable transfers for use in the assessment of ad valorem customs duties, the court stated: "The Federal Reserve Bank is a Federal agency exercising powers conferred by Federal statute and performing duties imposed upon it by Federal statute in a field which, under the Constitution of the United States, is within the sole and exclusive jurisdiction of the Federal Government."

In Federal Land Bank v. Bismarck Company, 314 U.S. 95 (1941) the United States Supreme Court considered an argument to the effect that Congress cannot constitutionally immunize the lending functions or the activities incidental thereto of Federal Land Banks from State taxation. In rejecting this contention, the Court said:

"The argument that the lending functions of the federal land banks are proprietary rather than governmental misconceives the nature of the federal government with respect to every function which it performs. The federal government is one of delegated powers, and from that it necessarily follows that any constitutional exercise of its delegated powers is governmental. Graves v. New York ex rel O'Keefe, 306 U.S. 466, 477. It also

follows that, when Congress constitutionally creates a corporation through which the federal government lawfully acts, the activities of such corporation are governmental. Pittman v. Home Owners' Loan Corp., 308 U.S. 21, 32; Graves v. New York ex rel. O'Keefe, supra, 477."

The National Labor Relations Board has held that instrumentalities of a State are not employers within the meaning of the National Labor Relations Act. See Mobile Steamship Association, et al (1938), 8 N.L.R.B. 1297, and Oxnard Harbor District (1941), 34 N.L.R.B. 1285. The same rule has been applied to an agency of the United States in the case of Panama Railroad Company Steamship Line. See American-France Line (1939), 12 N.L.R.B. 766. In this connection, it is particularly to be noted that the public functions of the Federal Reserve Banks are of a true governmental character and not of a proprietary character. Such matters as issuing and redeeming securities of the Government, paying coupons on such securities, issuing currency and disbursing coin, and paying checks issued by the Government are all essential to the functioning of the United States and are in no sense private functions or competitive with private business.

In National Labor Relations Board v. Bank of America, 130 Fed. (2d) 624 (C.C.A. 9th 1942), it was contended that the bank (a national bank) was an instrumentality of the United States and therefore not an employer as defined in the National Labor Relations Act. The court took the contrary position, however, pointing out that the bank was a privately owned corporation operated in the interest of its stockholders and that

the United States did not create it but merely enabled it to be created. The court also said that the fiscal agency activities of national banks are occasional and incidental. The court found it unnecessary to consider whether governmentally created corporations like the Reconstruction Finance Corporation, the Tennessee Valley Authority, the Home Owners Loan Corporation, the Federal Deposit Insurance Corporation, the Federal Intermediate Credit Banks, and like strictly governmental agencies are employers within the definition of the Act.

Federal Reserve Banks, however, are vastly different from national banks. The latter are commercial banking institutions operated for the profit of their private shareholders. As has been pointed out above, the Federal Reserve Banks are public institutions set up by Congress to perform governmental functions, and the residuary interest in them is in the United States. The United States did not merely enable them to be created but directed their creation and passed a specific statute for the purpose. Their fiscal agency activities, far from being occasional and incidental, constitute an important part of their total operations. It would be difficult to find an instrumentality or agency of the Government other than the executive departments and establishments of the Government themselves whose functions are more closely tied in with Government operations and whose activities are more governmental in character than the

Federal Reserve Banks. The Government must necessarily act in many matters through instrumentalities and agencies and where it has specifically required such instrumentalities to carry on operations for the Government, as it has required in the case of the Federal Reserve Banks, they must necessarily be considered as the "United States" for the purposes of the National Labor Relations Act.

CONCLUSION

In view of the fact that the Federal Reserve Banks were organized pursuant to direction of Congress, that their nature and functions are governmental in character, that included in these governmental functions are their operations as fiscal agents of the United States pursuant to statutory requirement, that the Reserve Banks are held by the courts to be instrumentalities and agencies of the United States, and that the compensation and other benefits of employees at the Federal Reserve Banks must have the approval of the Board, it is clear that the National Labor Relations Act is not applicable to the Federal Reserve Banks so as to give jurisdiction under that Act with respect to relationships between the Reserve Banks and their employees.

July 8, 1946.