

April 25, 1928.

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The only specific power given to the Federal Reserve Board as regards purchases and sales of Government securities by Federal Reserve banks, is contained in Section 14 (b), stating that such purchases shall be made in accordance with rules and regulations prescribed by the Board. The Board, under this Section, is given the power to regulate, and probably it could prescribe, maximum and minimum amounts which could be sold during any one period, but it could not forbid sales or purchases absolutely, for the power to regulate is not the power to destroy.

In other words, the Federal Reserve Bank, under the Act, has been given a discretionary power which can be regulated but not taken away from the bank.

It should be noted that the Board is given power only to regulate purchases and sales of Government securities under Section 14. Under Section 13 it is given power not only to regulate but also to restrict and limit purchases and sales of acceptances and domestic and foreign bills. This latter power however, does not apply to purchases of Government securities.

The formation of the Open Market Investment Committee grew out of a voluntary agreement entered into between the Federal Reserve Board and the Federal Reserve banks. Under this agreement, the individual authority and discretion of each Federal Reserve bank to buy and sell Government securities is taken away, and the power is given to the Open Market Investment Committee and the Federal Reserve Board. I believe a Federal Reserve bank could withdraw from this agreement at

any time. As a voluntary arrangement, however, an agreement is most desirable, and has worked well in practice, every operation of the Committee having been approved by the Federal Reserve Board.

In my opinion, the Federal Reserve Board has no legal right under the Federal Reserve Act to create such a Committee, or to take over to itself such functions, except by voluntary arrangement. If it had such a right and should exercise it, it would be tantamount to making the Federal Reserve System a central bank operated from Washington. It might also be claimed, if it had such a right, that it could create a similar Committee to take charge of the fixing of discount rates of the individual Federal Reserve banks. I can not believe that any such power was intended to be granted by Congress to the Federal Reserve Board.

*See X-3689 filed 4-7-23*