United States Senate

COMMITTEE ON APPROPRIATIONS

Lynchburg, Virginia,
December 18, 1934.

Honorable C. S. Hamlin,
Federal Reserve Board,
Washington, D. C.

My dear Mr. Hamlin:

Adverting to my inquiry over the 'phone yesterday as to the legal justification of the joint announcement of the Federal Reserve Board and the Insurance of Deposits Corporation that non-member State banks, along with member banks of the Federal Reserve system , will be required to reduce to two and one-half per cent interest payments on savings and time deposits, I had not time to pursue the subject with you before leaving Washington. I infer that you referred the inquiry to your general counsel, since I was called on the 'phone by Mr. Wyatt and given the provision of law authorizing the Federal Reserve Board to establish a maximum rate of interest to be paid by member banks on a certain line of deposits. However, what I desired to be told was: the legal authority for either the Federal Reserve Board or the Insurance of Deposits Corporation, or both in conjunction, to exact any such requirement from non-member State banks.

Your general counsel unhesitatingly stated, of course, that the Federal Reserve Board had no such legal authority; and, off the record as it were, said he had been unable to find any legal justification of such action by the Insurance of Deposits Corporation. The chairman of that Corporation frankly admitted to me that he could cite no legal authority for such action and confessed that the Corporation, in so resolving, "was skating on thin ice." The Comptroller of the Currency, another member of the Corporation board, could refer me to no provision of the law authorizing any such action by the Corporation; and I conjecture he had no part in the performance.

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The Corporation's general counsel disclaimed responsibility for advising such action by the Corporation and frankly said the action was "subject to serious question." In my view, there can be no possible question of the illegality of the action, which plainly constitutes assumption of legislative authority; and I venture to think the Federal Reserve Board made a grave mistake in lending the force of its prestige to such illicit action by making itself the medium of the public announcement. Mr. Crowley distinctly disclaims any responsibility for the announcement; and thus the Federal Reserve Board may be held to account for a proceeding which may keep out of the system hundreds of desirable State banks which will not relish having an untried Corporation assume unlawful authority over their business practices.

Only Congress has authority to legislate on the subject involved, and Congress distinctly did not authorize any such action by the Insurance of Deposits Corporation in respect to non-member State banks. On the contrary, the statute expressly defines the eligibility of non-member State banks to participation in the insurance privileges of the Corporation; and neither in text nor by implication does the statute authorize the corporation to make different requirements. Should hundreds of State non-member banks refuse to readjust their interest rates on deposits in compliance with this illegal order of the Insurance of Deposits Corporation how will the Corporation enforce its order? Will it thrust such banks from the insurance deposit privileges of the Act, notwithstanding they were brought into the system in the total absence of any such requirement as to eligibility as that now sought to be applied? Only by a further usurpation of authority could the Corporation assume to do this.

Over a period of years there has been discussion in the Banking and Currency Committees of Congress of the desirability of prohibiting payments by banks of interest on deposits. I confess to a moderate sympathy with that view; but no action has ever been taken by Congress beyond the authority delegated to the Federal Reserve Board to fix a maximum rate on

certain deposits in member banks of the system. It may be desirable to enact legislation affecting State non-member banks; but that is a point for the determination of Congress, after hearing these banks, and not for decision by the Insurance of Deposits Corporation.

Mr. Crowley thinks, and bluntly says, the existing statute is "a fool law;" but, unless and until Mr. Crowley can convince Congress that his appraisal of the statute is accurate, I am inclined to think that the Insurance of Deposits Corporation should obey the law enacted by Congress and not assume to alter it. The suggestion that this arbitrary disregard of existing law is "in the interest of recovery" is, in my judgment, simply convenient imagination, amply proved so by repeated experiments in the fixing of discount rates.

We seem, my dear sir, to have reached a stage in public affairs where every little sub-professor brought to Washington, however destitute of practical business acumen, is supposed to know more in a fortnight about banking and financial problems than the President of the United States, the seasoned officials of the Federal Reserve system and members of Congress who for many years have been keen observers of banking practices and intimately identified with financial measures. I note hastily in the papers to-day proposals from one or two of these supremely wise men to strike from a certain federal statute, which has had but a few months' test, a provision which the President urgently asked to have incorporated; also a provision drawn by former Governor Black, of the Reserve Board, and by him earnestly pressed upon the Banking and Currency Committees of Congress, together with a provision which you and other members of the Federal Reserve Board thought to be a major contribution to the code of regional banking legislation.

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Possessing the merit of reasonable precaution, I assume these provisions of law are comprehended in the sneer at banking "righteousness" contained in this remarkable report. Apparently the embryonic Solons responsible for the report are cheerful believers in the wanton use of bank trust funds, the very vice that so recently plunged the country into an era of bank wreckage unprecedented in the history of America. Apparently they think resort now to the unwise banking practices which helped to bring on disaster would facilitate recovery from the evil consequences of such practices. There is scarcely a phase of banking touched by this report which has not repeatedly been traversed by the Banking and Currency Committees of Congress without the assembling of a costly staff of employees to furnish data and make suggestions.

Speaking as chairman of the Senate Committee directly in charge of the legislation condemned without adequate trial, I think the sooner Washington is rid of impatient academicians whose threatening manifestos and decrees keep business and banks alike in suspense, if not in consternation, the sooner and more certain will we have a complete restoration of confidence and resumption of business in every line of endeavor. Terram coelo miscent; or as Cicero has it: "Damnut quod non intelligunt."

Sincerely yours,

Carter Glass.

CG/M.