VOLUME I

CONFERENCE OF GOVERNORS OF THE FEDERAL RESERVE BANKS

FEDERAL RESERVE BOARD
Treasury Building
Washington, D.C.

May 9 - 12, 1927

Walter S. Cox
Shorthand Reporter
Washington, D.C.

CONFERENCE OF GOVERNORS OF THE FEDERAL RESERVE BANKS.

Washington, D.C.,

Monday, May 9, 1927,

10 o'clock a.m.

A Conference of Governors of the Federal Reserve Banks was convened in the Hearing Room, Federal Reserve Board, Treasury Department, Washington, D.C., on Monday, May 9, 1927, at 10 o'clock a.m.

PRESENT: D. R. Crissinger, Governor, Federal Reserve Board.

Edmund Platt, Vice-Governor, Federal Reserve Board.

Adolph C. Miller, Member, Federal Reserve Board.

Charles S. Hamlin, Member, Federal Reserve Board.

George R. James, Member, Federal Reserve Board.

Edward H. Cunningham, Member, Federal Reserve Board.

Walter Wyatt, General Counsel, Federal Reserve Board.

PRESENT ALSO: The Governors of the Federal Reserve Banks:

W. P. G. Harding, Governor, Federal Reserve Bank of Boston.

Benjamin Strong, Governor, Federal Reserve Bank of New York, and Chairman of the Conference of Governors.

George W. Norris, Governor, Federal Reserve Bank of Philadelphia.

E.R. Fancher, Governor, Federal Reserve Bank of Cleveland.

George J. Seay, Governor, Federal Reserve Bank of Richmond.

M. B. Wellborn, Governor, Federal Reserve Bank of Atlanta

J. B. McDougal, Governor, Federal Reserve Bank of Chicago.

D. C. Biggs, Governor, Federal Reserve Bank of St.Louis.

R. A. Young, Governor, Federal Reserve Bank of Minneapolis.

W. J. Bailey, Governor, Federal Reserve Bank of Kansas City.

Lynn P. Talley, Governor, Federal Reserve Bank of Dallas.

J. U. Calkins, Governor, Federal Reserve Bank of San Francisco.

G. L. Harrison, Deputy Governor, Federal Reserve Bank of New York, and Secretary to the Conference of Governors.

Present also: Mr. Newton D. Baker, of Cleveland, Ohio.

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P R O C E E D I N G S .

Governor Crissinger. The meeting will come to order. Since the last meeting of the Governors there has arisen a controversy in the Sixth District. Two little banks in the Sixth District have been writing cashiers' checks with a notation on them "Not payable at a Federal Reserve Bank"; they have also had their customers put out checks with a like notation, we think possibly in an attempt to undermine the par check clearing system that we have in vogue. Feeling the importance of it, and having the whole subject of the par collection of checks in mind, the Board has asked Mr. Baker to review the legal aspect of those checks that have been presented in that manner, or written in that manner, with a view of determining upon a policy that shall be uniform throughout the System, to be followed. The feeling has been here at the Board that this was a preliminary step towards a general attempt, possibly, among certain classes of banks, to break down the par clearance of checks system, and for that reason we have felt it of great importance to have a full consideration of it before any further steps are taken.

The Board has acquired the services of Mr. Baker to wri

an opinion and to come here today to discuss the matter with the Board. He is here this morning and I will now turn the matter over to him.

Governor Seay. Was that action on the part of a bank instigated by anybody in particular?

Governor Crissinger. We haven't any proof of that or any evidence of that kind. We do not know. Governor Wellborn tells me that the banks have never talked with them about it and we rather suspected that there was probably a little movement on foot to spread it gradually and get it started gradually down there. Who is at the head of it we have no knowledge.

Governor Seay. That is no evidence of activity on the part of the Claiborne section?

Governor Crissinger. No. Some of that faction is in very great trouble down in Mr. Wellborn's district now.

Mr. Baker. Governor Crissinger, and gentlemen, the question presented is exceedingly complicated and difficult because it is one of the situations that was not foreseen by the drafters of the Act. There is no specific provision in the Federal Reserve Act itself that meets quite this situation. Any course of action that can be recommended to you

will have to be built up by a more or less argumentative inferenoe as to the intention of the Act.

The course of action that you ought to take might be one of several of different degrees of strength from the litigation point of view.

The facts are quite simple. This National Bank at Hartford has stamped across the face of its cashiers' checks "Not payable through the Federal Reserve Bank of Atlanta."

So far as I know that particular bank has not stamped that upon the checks of any of its depositors; but it is entirely clear that if they can stamp it on their cashiers' checks they can put it on their depositors' checks, if they consent. If the National Bank of Hartford can do that, every other member bank can do it; so that the practice is one which, if it were permitted to grow, would not merely injure, but would destroy the par clearance features of the Federal Reserve banking system.

I have talked this over with Mr. Wyatt since I came here this morning, and I find his mind and mine are almost one about it, perhaps quite at one. I have thought about it a very great deal out in Cleveland and have had some of my people work on it with me, and I have reached this general

judgment.

In the first place, I think it is demonstrable, legally demonstrable, and can be proven in court to the satisfaction of a court, that one of the primary purposes of the Federal Reserve Act was the par clearance system, that that was a system not for the benefit of the Federal Reserve bank, or for the benefit of a member bank, but as a part of the public fiscal policy of the country and therefore a piece of legislation intended for the general good. It is important to establish that because the rules of interpretation with regard to acts of that kind are very much more liberal than when some special benefit of a pecuniary character is desired for a particular person or group of persons. The rule is that whenever an act of a public legislation is enacted to redress an evil or provide a public good, that the act is to be as liberally construed as is necessary, so far as it is susceptible of that construction — as liberally construed as is necessary to accomplish the public purpose that Congress had in mind. Where an act is passed to confer a special benefit upon a group, at the expense of others, it is construed narrowly so as to limit the benefit to the exact language of the gift.

In this case we have the benefit of the act that I think we can demonstrate is for the public good as a part of the public fiscal policy of the country. Therefore we are entitled to ask the court to construe it as generously as may be necessary to carry out the purpose that Congress had in mind. That helps us over the fact that there is no specific provision in the Act which meets this situation, if we can find in the act a purpose which is public and a language which looks in that direction and is susceptible of such interpretation, That I think we can find.

The difficulty with the case grows largely out of the so-called Richmond case, a case that was tried in Richmond, which grew out of the action of the Legislature of North Carolina, reserving to its banks certain rights as against the par collection system. When that case was before the Supreme Court of the United States Mr. Justice Brandeis, in his opinion, said that it was not a part of the purpose of Congress through the Federal Reserve Act to establish a universal par clearance. He admitted that it was part of the purpose to establish facilities which might lead to a universal par clearance, but that it was not the Congressional purpose to establish it compulsorily, and he therefore said if

the Federal Reserve banks received a check which they could not collect because it was not on a member bank -- as it was in that case not a member bank -- and the bank declined to remit at par, then the obligation imposed by the statute upon the Federal Reserve Bank ceased and they were free to decline to attempt to collect that check.

On the basis of that decision, or that language, because undoubtedly this bank has been encouraged to believe that it was not a part of the national purpose that Congress had in mind that a universal par clearance system should necessarily be established, and that is the only obstacle that we have.

Now let us see what the case actually is; let us see what strength it has. Mr. Wyatt and I agreed in the Pascagoula case. We had the legislative history collated, showing the Congressional debates on the act, and the history of the act showed that par clearance was one of its primary purposes. Assuming that one of the primary purposes of Congress was to establish a par clearance system, it necessarily follows that if this thing could be done by this bank, other banks can do the same thing and therefore the purpose of Congress would be frustrated by the action of those banks, whether acting in concert or not.

The Hardwick amendment which, as Mr. Justice Brandeis says, restored to the banks, members and non members, the right to collect exchanges charges so long as they were not charged to the Federal Reserve Banks, as its last paragraph, its last sentence, the statement "No such charge shall be made against the Federal Reserve Bank."

My personal belief is that that is the strongest thing we have in our favor, from this point of view: If Congress, in express language has prohibited the member and non member banks — it must mean a non member clearing bank — but if Congress in express language has prohibited those banks from making an exchange charge against the Federal Reserve System, then for the stronger reason, there must be implied in that a prohibition upon member and non member clearing banks from doing any other thing that would be a worse evil in the same direction than making an exchange charge. That is to say, if they cannot impose an exchange charge on a Federal Reserve Bank, clearly they cannot prohibit their checks from being paid through a Federal Reserve Bank, because the denial of the right to impose an exchange charge is the lesser evil than prohibiting the circulation of their checks through Federal Reserve Banks. So I think we have a

perfectly good legal ground for saying that the Federal Reserve Act, its history, its intention and its language are all fairly clear, they are argumentatively clear, in the absence of express and definite language, to the effect that a member bank or a non member clearing bank may not do the thing which the Hartford bank is here doing.

Now, as to what form the remedy shall take, that is really a difficult question. The question was asked Governor Crissinger as to whether there was any evidence of concerted action. When this question first came to me I had the opinion that we might find that there was a conspiracy to obstruct the laws of the United States and that the Attorney General might instruct the local district attorneys to send for these bank officers and ask them whether they were acting in concert in this attempt to obstruct the laws of the United States I confess I thought that would be more in terrorem than anything else. I thought it would alarm those officials to be asked whether they were acting in conspiracy and I thought it probably would have a rather disquieting effect upon them. But I am satisfied, upon a thorough examination of it, that there is not much in that. I do not believe the conspiracy statute quite reaches that far.

There are three or four possible remedies. In the first place a suit might be brought on one of these checks by the Federal Reserve Bank of Atlanta, if it owned the check, but that would put us in the position of plaintiff, which I would prefer not to occupy if possible. I would rather that the legal attack on the System come from those who are the aggressors against the System and put us in position of defending the System rather than attacking a member bank. So I discard for the moment the question of bringing a suit by the Federal Reserve Bank of Atlanta.

I think it would be wise first to amend the regulations of the Boafd. I think The Board has the power to amend its regulations prohibiting this kind of endorsement on a check. I have drawn up some language which may or not fit, but I will submit it to Mr. Wyatt. He tells me that the regulations are in process of amendment now. I think there will be plenty of time for that. I think The regulations ought to be amended to prohibit this kind of legend on a check, either a cashier's check or a depositor's check. And follow that through, after the regulations shall have been so amended, if it is your judgment that it should be, in this way: Just as soon as any check is issued at any time which violates

that regulation, the Comptroller should be requested by the Federal Reserve Board to bring it to the attention of the Directors, the individual Directors of the bank in question. The statute with regard to the forfeiture of bank charters requires in this instance that it should be sought by a suit in the district court filed by the Comptroller. One of the provisions of the statute is that whenever a suit is brought the members of the Board of Directors must have knowledge of the wrongdoing first, and if they do not discontinue the objectionable practice, that the directors then become personally liable for the consequences.

That is again in terroram. . . . If the Comptroller of the Currency should write to the farmers and merchants in some small city in the South who were members of the board of directors of a bank, write directly to them — not to the executive officers of the bank, but to the scattered members around the board table, citing them to the statute and telling them that their bank was violating a regulation of the Federal Reserve Board, that their attention was being called to it under this section of the statute, that they would all read that statute and when they found out that it imposed a personal liability upon them for any irregularity

brought to their notice, that there would be an immediate holding of hands and a hunting of counsel to see whether they really were involving themselves in anything that might entail apersonal responsibility, as indeed there might be a personal responsibility if it went far enough to bring a suit for forfeiture of charter, with the inevitable consequence of a receivership for the bank to protect against a run on it as soon as a suit was filed.

Whether or not that would be a wise thing to do I think we cannot determine until we see what happens in another direction. That other direction is this: Under section 16 of the Federal Reserve Act a Federal Reserve bank must receive any check drawn on a member bank, and I believe it is entirely lawful for the Federal Reserve bank in question -- the Atlanta Federal Reserve Bank in this instance -- to charge the check to the reserve account of the member bank. I think those checks when they come in ought to be received; effort should be made to get as many of them as can be gotten and send them in to the Federal Reserve Bank of Atlanta. They ought to be sent with the ordinary daily cash letter to the Bank of Hartford, or whatever bank puts that restrictive endorsement on a check; they will doubtless be returned

to the Federal Reserve Bank of Atlanta and notation made that they have been returned because of a restrictive endorsement "Not payable at the Federal Reserve Bank of Atlanta", and restricted from circulation through that bank; that they are not returned for any other reason, as, for instance, insufficient funds or any irregularity in the check itself, because then, of course, it will be sent back to the depositing bank and dealt with in the ordinary way. But if they send it back for no other reason than the fact that they have undertaken to restrict its circulation through the Federal Reserve Bank of Atlanta, I think the Federal Reserve Bank of Atlanta ought to charge the check to the reserve account of the bank in question and notify them that it has been so charged. That would force the bank from which the checks came in into the position of being obliged either to bring suit against us, or against the Federal Reserve Bank of Atlanta, to prevent its charging those checks to its reserve account, or to prevent imposing the penalty which arises upon having an insufficient reserve account. It might ultimately get to the point where there will be no reserve account for that bank because of the fact that they would send so many checks and have so many penalties asessed that they might be in a posi-

tion where they would not have any reserve account at all. The strong likelihood is that that course of action will force them into the position of plaintiff, and when they do that then we are in the position of defendant.

Governor Harding. I recall that nine or ten years ago there was a bank in Nebraska, a National bank, a member bank, receiving checks from the Kansas City Reserve Bank which were charged face value against their account, and the Nebraska bank credited a quarter in exchange. The thing rubbed along with a constantly increasing difference in the reconcilement of the account until it reached pretty nearly two thousand dollars. My recollection is that the bank finally threw up its hands, reconciled the account -- am I right about that, Governor Bailey?

Governor Bailey. Yes, it did, Governor.

Governor Harding. In this case it would be very much more in amount when the entire amount of the check was charged against the account than it would be in the case where merely a quarter in exchange was charged.

Mr. Baker. There is just one other thought, or one other idea, and that is if none of these things work out, or it may work out where we are forced into the position of bringing a

suit ourselves, in which case it seems to me highly desirable that suit should be predicated upon a check that comes from some other bank in the country, some other Federal Reserve district, to the Atlanta District. For instance, the Cleveland District sends a check to the Federal Reserve of Atlanta for collection. We have the additional statutory mandate that the Federal Reserve Bank of Atlanta must collect from the Federal Reserve Bank of Cleveland. To attempt to prohibit the Federal Reserve Bank of Atlanta from performing the function especially enjoined upon it by the statute, would give us an additional reason of a defensive character, or offensive character, if we had to use it that way.

So in substance, my recommendation at the moment is -- and it is a very difficult question, it is a delicate question, it is obscure -- but my recommendation is that the regulations be amended so as to specifically prohibit this sort of a legend either upon a cashier's check or a depositor's check.

Governor Calkins. Mr. Baker, in your opinion has the Federal Reserve Board power to prohibit the drawer of a check from putting a notation on it in regard to the course of its collection? These checks that you have been discussing are

cashier's checks?

Mr. Baker. Yes.

Governor Calkins. I suppose the Board has power to prohibit the notation on it by the bank itself. My question is whether it has power to prohibit the drawer of a check, who would be presumed to have made the notation, from doing it, whether it be printed, stamped or written?

Mr. Baker. No, I do not think it would have that power, but I think the Board would have power to prohibit the member banks from procuring them to be so endorsed.

Governor Crissinger. Was there not one of the checks drawn by a depositor?

Mr. Baker. You told me that there was a check of that sort, but I have not seen such a check.

Mr. Wyatt. Yes, there was one, a check on the First National Bank of Samson, Alabama.

Governor Crissinger. A depositor drew a check of that kind?

Mr. Wyatt. Yes. I understand if that is the result of inducement by the member bank, that it could be prohibited by the Board's regulations.

Governor Harding. If it is refused for this one specif

reason it can be charged to the account of the bank --

Governor Crissinger. It could be handled in the same way.

Governor Harding. Yes, unless it was returned protested for lack of funds. Otherwise it could be charged to their account.

Mr. Baker. Yes, if the only reason for the return was the restricted endorsement. This restricted endorsement, under the negotiable instruments act, is rather a doubtful question. It rather has the aspect of cross checks and the authorities are very much in doubt about it.

Governor Strong. If the regulations of the Federal Reserve Board are amended so as to lay the foundation for actio in this matter, it would be necessary for the reserve banks to change their collection circulars uniformly, would it not?

Mr. Baker. Yes.

Governor Strong. It just occurs to me that if the recommendations of counsel were expressed in very specific advice to each Reserve Bank, as to how any check of that character coming into its hands should be handled, we might escape some slip-up somewhere that would make a bad record for us.

I have had a little trouble with one point in your dis-

cussion, Mr. Baker. If a cashier's check of that character is issued by a member bank and stamped "not collectible through a Reserve Bank", we can presume that it intends that when that check is presented at the bank for payment, that is the bank drawing the check, that then they would effect the payment of it by drawing a draft on their reserve account at the Federal Reserve Bank, and instead of forcing an exchange charge on the collection of the check they simply will save, for a period of time, a reduction in their reserve balance, and it might not necessarily result in any exchange charge at all. It would impair the collectibility of the check because it would force the holder to wait until he got the Federal Reserve funds in payment for the check.

The other difficulty that occurs to me, and which is common enough in all the Reserve Banks, is this: Whenever we have a dispute with a member bank about the charge to their account, it becomes what we call an "exception", and those exceptions may continue for a long period of time. Unless the Comptroller of the Currency is willing to bring proceedings because of impaired reserve balance andforce the bank to quit making loans and paying dividends, as provided in the

statute, we simply would have no remedy, except a dispute. They would claim that they had a reserve balance and they we would claim that they did not have.

Mr. Baker. They would have accumulated penalties, however.

Governor Strong. Yes, but their position is based on the theory that we have no right to make the charge to their account.

Mr. Baker. Clearly that is true unless —

Governor Strong. My difficulty, through that method, is finding means whereby we can avoid being plaintiff in a suit.

Mr. Baker. I think I understand the point you are making, although it involves banking practice that I do not know much about. My hope is this, that it would lead them to be placed in the position of plaintiff, but I have no certainty that it would.

Governor Strong. If they are smart they can avoud it by simply maintaining their right to this practice of claiming that we had no right to make the charge to their account.

Mr. Baker. Ultimately would not those exceptions have to be reconciled in some way?

Governor Strong. We have had exceptions that have lasted for a period of years. We have them in the Treasury Department right along. The question is who is going to force this thing? Are we going to bring suit to force them to maintain their balance and force collection of these penalties, or will the Comptroller bring suit to forfeit their charter for violation of the law? In other words, that this method does not seem to me to be an effective to bring them in as plaintiff in a suit. However, the other Governors may think differently.

Governor Harding. In the case of the country banks where you charge a number of these checks against their reserve, that impairs the reserve and the Federal Reserve Bank imposes the penalty, they simply draw against the reserve and increase the deficiency —

Mr. Baker. But what happens as the deficiency does increase? It goes on until the reserve has disappeared and they have no reserve.

Governor Harding. Then the law says that the bank cannot pay any dividends or make any new loans.

Mr. Baker. But Governor Strong's point is that they can force us into the position of plaintiff, through the

Comptroller, which of course is so.

Governor Seay. Conceivably the amount of checks of such nature might absorb the entire balance of a member bank, that is, through the action of the Reserve Bank. Then let us suppose that the bank itself should draw its draft upon the Reserve Bank; it would have no balance; the Reserve Bank would refuse to pay its check against that balance. Then suppose the court should decide in favor of the drawing bank and the Reserve Bank would be in the position of having refused to pay the draft of that bank upon its balance, and the Reserve Bank might be held for punitive damages also.

Mr. Baker. Yes.

Govenor Seay. It has occurred to me, as a possible way of meeting the situation, to have some other bank take the same action in a friendly spirit.

Governor Calkins. There is one point which Governor Strong did not state, and which I have had in mind, and that is there will be no difficulty, so far as the member bank is concerned, in evading any controversy whatever from a depleted reserve, because while it might not reconcile its account to meet the exceptions, it might maintain a sufficient reserve balance nevertheless for an indefinite length of time

in which case neither the Comptroller nor the Federal Reserve Bank would have anything to say.

Mr. Baker. That is if it maintained an adequate reserve and maintained a reserve to meet the exceptions at the same time?

Governor Calkins. Yes.

Mr. Baker. Of course that is perfectly true, but the effect of that would be, as I gather it -- these things get about in banking circles, that nobody was paying any attention to that restriction, the checks would keep on coming in and no harm would be done.

Governor Harding. Would the Board have the legal right, under its regulations, to allow the Federal Reserve Bank in another district to send that check direct to the bank on which it was drawn? What the country bank is after is the exchange. If it doesn't get the exchange it might force it to say "Not payable through any Federal Reserve Bank", which would broaden the whole situation.

Mr. Baker. Yes. My memory for the moment is weak on the question of whether the statute requires banks in other districts to clear through the Federal Reserve Bank of each district or whether it merely permits it.

Mr. Wyatt. It merely permits it. I recently considered the question. If the Federal Reserve Bank of Boston should get a check I think it could send it either to Hartford --

Governor Harding (interposing:) That is what I came pretty nearly doing when that check came back.

Mr. Baker. It seems to me that would force them to widen the situation and we would see if they were attacking the whole Federal Reserve System. So far as Governor Strong's suggestion is concerned, it seems to me that method might fail to force them in the position of plaintiff, by just making an exception, and if it does that, then so far I have not been able to devise in my own mind any course of action except to get the Comptroller to file a suit.

Governor Crissinger. Does not the Federal Reserve Board have the power to order the institution of suits?

Mr. Baker. Yes, the Federal Reserve Board has the right to direct the Comptroller to bring suit.

Mr. Hamlin. In the name of the Federal Reserve Board.

Mr. Baker. In his own name, as I recall it.

Governor Crissinger. In the name of the Comptroller. We did it when I was Comptroller in the case of a Frederick bank.

Governor Seay. Would it serve any advantage, Mr. Baker, to get someone to act in the way I have suggested, get some other bank to follow the same course, have that bank bring a suit against the Federal Reserve System in a friendly way? There would be no hostility between the two factions but merely a friendly action to determine the legal rights in the case. Some bank could bring a suit against the Federal Reserve System in that way if that would serve the purpose.

Mr. Baker. I have a shrinking from friendly lawsuits. It is possible sometimes to frame a friendly issue in that way, but whenever you do, anybody who really has an adverse interest to you, is free to come into court and say that he comes in amicus curiae, but he really has a hostile interest and he charges that you are merely conducting a fencing match when he wants a fight. He then takes control of the litigation. That very often happens in taxpayers' suits, and representatives' suits. For instance, the stockholders of a corporation will bring a suit against the corporation because there is some doubt about the validity of some part of their corporate papers and they want to get an adjudication of it. Some adverse stockholder will come into court and say he wants to be a party to it and he gets control of the litigat

and, so far as the Court is concerned, you are in a position of having framed an academic issue for the Court. Therefore my inclination is to avoid a friendly suit.

Governor Strong. How about the provision in regard to requiring a bank to retire from membership in the Federal Reserve System?

Mr. Baker. That cannot apply to a National Bank unless it surrenders its charter.

Governor Strong. Can we not force them to surrender the charter?

Mr. Baker. Of course that is a remedy you could take independent of the Comptroller if their reserve got to a place where you felt it was improper to have them in the System. Then you could notify the bank that its membership would have to be withdrawn. That is a provision of the Act.

Mr. Wyatt. There is a provision of the Act to that effect, but it only applies to State member banks.

Governor Wellborn. Why would it not be the best plan to take your first suggestion, that it is on the broad ground that it is against the principle of the Federal Reserve Act as stated in the Hardwick amendment? I would like to say, so far as any concert of action is concerned,

that we do not think there is any. We have never heard of it in our district. In fact I have never heard this question discussed at all. I have never heard any officers mention it in any banks in the District. In fact, I have never heard any member banks discuss it in the last three or four years.

Mr. Baker. But it is a bit too ingenuous, I think, to have occurred simultaneously in different places.

Governor Wellborn. One of the banks wrote to one of our officers, and we thought that there was a lawyer behind it, who had evidently written a letter for the bank.

Governor Harding. The Comptroller told me that it looked like some collusion, that that very sound little banks were doing it, and that he could not order frequent examinations of them as an excuse to get at them in some other way. Would it strengthen your case if you could force the banks that are doing this to use a stamp instead of saying "Not payable through the Federal Reserve Bank of Atlanta", but "not payable through any Federal Reserve Bank"?

Mr. Baker. That was the suggestion.

Governor Harding. If you want to do that, have another

bank outside of the Atlanta District send direct to those banks and demand par remittance in some form or other, and then if the Atlanta Bank has any of those checks, if they send those checks, without endorsement, but merely having some sort of symbol on the face of the check to identify it, to some other bank, and let that bank send them, as soon as the bank sees that it isn't getting any letter, they will either put on the check "Not payable through any Federal Reserve Bank" or they will quit the practice altogether. I have had a lot of experience dealing with the banks in Alabama and I recall making a deal with the American Trust & Savings Bank. They had a lot of small checks, just like I did. Those banks would make a charge of 15 cents. They would give us the 15 cent rate on a hundred dollars. We would either have to hold up the checks for a week to get a hundred dollars' worth or send them along and stand the excessive charge. The American Trust & Savings Bank carried $150,000 with me without interest. I took all of their checks and collected them for them. I got a number of letters saying "I notice that you are taking checks from the American Trust & Savings Bank and we are going to charge you separately on those checks", which de-

feated my purpose. Then I had a little rubber stamp made with the letter "A" -- I had in mind Hawthorne's Scarlet Letter -- and I stamped that on the face of those checks. To all intents and purposes it had the legal effect of an endorsement and I had no more trouble. They never got onto it.

Mr. Baker. I have two feelings about this. They are largely feelings. In the first place I do not like the idea of the Federal Reserve Bank having to go to court with their member banks. I wish we could find, I hope we can find, some internal method of discipline rather than taking the member banks into court, because I would like to build up the idea as expressed by Mr. Justice Brandeis in one of his opinions -- I forget which one -- that there is a distinction between a member and a non member bank. He says that so far as the member banks are concerned the Federal Reserve Board has large powers and influence. Now, as far as possible I would like to build up the idea that the things that this Board determines to be for the benefit of the country are within its regulatory powers and internal discipline will accomplish them rather than litigation by the Board against a bank. So far as that can be done I hope it will be done in

that way.

The other feeling is that whatever can be done against the Federal Reserve Bank of Atlanta obviously can be done against the System as a whole. Therefore we have in the action taken against the Federal Reserve Bank of Atlanta that which would be involved if the endorsement stated "Not payable through any Federal Reserve Bank", so that it is hardly necessary for us to wait until theyforce them into that position. If we have any power we can act before they do it.

Governor Wellborn. Following that line of discussion, it has been suggested in the Federal Reserve Bank of Atlanta that we have a conference with these officers, discuss the matter with them and get their point of view, to see if we could not influence them. However, that has been deferred until we had your opinion or until we received some message from the Federal Reserve Board regarding it. That may be a very good plan to work that out and see what they have to say about it.

Governor Crissinger. Did I understand you to say that they had counsel who had advised them?

Governor Wellborn. I think they have counsel judging

from the letter they wrote to us. They stated plainly that they wanted the exchange. You have the letter on file here somewhere.

Governor Seay. May I ask Mr. Baker whether the position taken by this bank is known to its directors?

Mr. Baker. That I do not know, Governor Seay. That was the reason I suggested that if we get to a place where they do not sue as plaintiff, after the regulation of the Board has been amended so as to be perfectly explicit and not a matter of interpretation of general policy and phraseology, that then we notify the individual directors to see whether or not they would not bring about an abatement of the practice.

Governor Seay. Did I understand counsel for the Board to say he believed that the Federal Reserve Board could authorize the Federal Reserve Bank in any district to send checks direct to a member bank in other districts?

Mr. Wyatt. That is what I said, but I do not believe that a bank in the drawee bank's district could send that check to a Federal Reserve Bank in another district. The fact is I know it could not do that. The Act prohibits the Federal Reserve Bank from receiving checks from another

Federal Reserve Bank unless they are drawn on a bank in its own district.

Governor Harding. Could a Federal Reserve Bank, having received it, send it to another Federal Reserve Bank?

Mr. Wyatt. If a Federal Reserve Bank receives a check from someone other than another Federal Reserve Bank.

Governor Strong. I do not like the idea of setting up a special procedure of collections in order to meet a special situation, something which would defeat the general scheme of collections. If we can do it and not depart from the regulations or the general scheme of collections, which is intra-district as regards interior checks, and between the Federal Reserve Banks as regards exterior checks, it seems to me a much stronger position would be held. A friendly suit between Reserve Banks would be better. Of course if we could force them to sue in order to accomplish the purpose of defeating the exchange charge, then we would be in an ideal situation.

Mr. Baker. Exactly.

Governor Strong. It might be accomplished, it seems to me, by just charging these checks as they come in until

they get under their reserve, and then call it to the attention of their directors, call the attention of the directors to the penalties to which they are personally liable if they continue to pay dividends or make loans under those conditions. We could do that andthen see what the effect would be.

Governor Calkins. But if the bank is smart enough to maintain a reserve account notwithstanding the charges against it, there would be no ground whatever to go upon.

Governor Strong. But they would not do that.

Governor Calkins. Why not?

Governor Strong. They would be pumped dry in time.

Mr. Baker. Wouldn't that defeat their purpose? That would make them carry a larger reserve without receiving any interest on it.

Governor Calkins. Yes, but it would defeat our purpose as well, would it not?

Governor Fancher. They would be paying the checks at par.

Mr. Baker. We could stand it as long as they could. They would be losing interest on their money instead of getting an exchange charge.

Governor Harding. We stood it three or four years in the Kansas City case and did not lose any sleep over it.

Governor Bailey. In that case it was only the exchange charge that was charged against the reserve. In this case it would be the whole check.

Governor Harding. Yes, it would be much larger in this case.

Mr. Baker. You would favor the proposition of forcing them into the position of plaintiff by charging it against the reserve account?

Governor Strong. Yes. That seems to be the only way possible to make them fight it.

Governor Harding. That was your original suggestion, Mr. Baker.

Mr. Baker. Yes. My hope was that it would accomplish that purpose, but I began to feel a little shaken when Governor Strong brought to my attention the question of maintaining those exceptions, which could be done for a long time.

Governor Bailey. It is a question about that reserve balance being maintained. They maintain that they have it,

that it is not a question of deficiency, but they say we had no right to charge them with the item.

Governor Seay. Your exceptions were never large enough to absorb the balance of the reserve?

Governor Strong. No, they have been small.

Mr. Wyatt. I have not thought it out and I do not know what the legal conclusion would be. It is merely a suggestion, but it might be possible for the Comptroller of the Currency to force the issue with regard to these exceptions by taking the position that they are making a false statement about maintaining their reserve and making false reports.

Governor Harding. I took that up with the Comptroller in the Kansas City case and he could not do anything about it.

Governor Norris. It seems to me it would be an important thing for us to know in advance whether the Comptroller would cooperate with us or not.

Governor Crissinger. I think he will, so far as that is concerned.

Governor Norris. If we follow this practice of charging these checks to the account of the member banks, the membe

banks will be deficient in their reserve on our books while on their own books their reserve will be all right, When it comes to an examination of the bank the Comptroller's examinerswill find that, according to their books, their reserve has been all right, but if he verifies that from our books he will find that it has not been all right. According to our books they will be deficient. If the Comptroller will take our calculation of their reserve then he will be in a position to say to them "Your reserve has been chronically deficient for a period of months." He can call attention of the directors to the fact that they are not only violating the law, but that each individual director is practically an endorser on every loan that they have made during that whole period. At a recent conference in our office the Chief Bank Examiner put that up to the directors of a bank and the effect of it was electric

Mr. Baker. Exactly.

Governor Strong. I think that is a most salutary thing

Governor Young. Let us follow out your idea a little further, just from a practical standpoint. It is quite true that checks might come in so rapidly that possibly in three or four months the bank would not have any reserve a

all. Then a draft would be presented by someone, say for five or ten thousand dollars, and would the Federal Reserve Bank refuse to pay that draft? Now, from the practical standpoint I do not think there is a Governor around this table who would refuse a draft on a perfectly solvent National Bank.

Governor Strong. It is not likely to go as far as that, Governor Young.

Governor Young. The position of the Comptroller of the Currency is a good deal the same. Here is a bank that is a good bank, a solvent bank, able to pay its depositors, and the Comptroller of the Currency is requested by the Federal Reserve Board to bring suit against that solvent bank to cancel its charter. From a practical standpoint I do not think it will ever be done.

Governor Crissinger. It has been done.

Governor Young. To a good solvent bank?

Governor Crissinger. Yes, a good solvent bank.

Governor Young. Well, it is a dangerous thing.

Mr. Baker. I think Governor Strong's statement is true. I do not think it will ever get that far. Just as soon as the regulation was amended so as to be explicit in

its prohibition upon that point, the first time we had a notation on a check issuing from a bank, after the amended regulation and the amended collection circular, the Comptroller would notify the members of the board of directors of the bank in question that their bank was violating a regulation of the Federal Reserve Board. He might point out that he learned from the Federal Reserve Bank of Atlanta that their reserve was already deficient by virtue of the violation, and I think they would put an end to it.

Governor Harding. I think so too.

Governor Baker. I think those boards of directors are not going to assume that responsibility.

Governor Young. Well, if they get the opposite kind of advice from attorneys whom they feel are competent, then what? This has occurred to me in this case. Here is a bank that stamps some cashier's checks "Not payable through the Federal Reserve Bank of Atlanta." I do not think that amounts to anythin g at all. That will spread to their customers ultimately. That is their idea. Now let us assum that we go ahead, as Atlanta has already gone ahead, and just r efuse to handle the checks. That will result in its spreading. If it does not spread very far no harm is don

If it does spread it will be brought to the attention of the American public and it will come up in Congress and legislation will be passed that will absolutely prohibit it. That seems to me to be as good a solution of it as anything I know of.

Governor S trong. But it is a great hazard to the collection system.

Mr. Baker. I am less optimistic about action by Congress than I am about any other subject in the world. Governor Hughes once said to me that he was always interested in the victories of optimism. In my experience I have never won any victory with regard to Congress. In that hubbub there would be the statement that it was an attempt on the part of the System to bring about some sort of coercion or some trouble between the bank a nd its customers.

Governor Young. That is one reason I bring it up. We just lost a case on coercion that wasn't quite as bad as th talk around the table here.

Mr. Baker. But after all the coercion is somewhat dif ferent. We have had cases of alleged coercion in Cattlesburg, and some other places. That isnot the sort of coerc which violates the mandate of the statute. The statute, s

tion 16, does say that Federal Reserve Banks must receive checks drawn at par on member banks in its district, but it does not say that some kinds of checks andnot other kinds of checks. It says "checks." I think the Federal Reserve Bank of Atlanta might perhaps find itself in a very difficult situation if one of the checks came through and it refused to accept it, because it would probably be held as a matter of law that it should disregard the restrictive endorsement and take the check under Section 16 of the Act.

Governor Young. That has been a question in our bank for a long while. I have always taken the checks, largely under section 16. You have a member bank in the country, a four or five days point in remitting. You get more checks and you send more checks out there. I think it would be negligence. I have often wonderedwhether we could refuse to send those checks. I do not think Section 16 can go so far as to compel the Federal Reserve Bank of Minneapolis to assume a responsibility that it does not care to assume. I think there are circumstances where we can refuse. At least Judge Vandtells me that there are.

Governor Wellborn. Mr. Wyatt, in his memorandum, states that our bank refused to handle the checks on the ground that they were non-negotiable. That is a mistake. We have never taken that position with regard to those checks. We sent them back because it was stamped on them "Not payable through the Federal Reserve Bank." Our attorney tells us that it is negotiable, that the notation on there does not render it non-negotiable.

Mr. Baker. That is a very doubtful question. It is a restriction on a check saying that the check is not payable through the Federal Reserve Bank of Atlanta. Suppose the next check they send out is endorsed "Not payable through any Federal Reserve Bank"? Suppose the next one is endorsed "Not payable through any bank except John Smith's bank", at some particular place? You finally get to the point where under the negotiable instrument act you have restricted the negotiability of the instrument and it ceases to be a negotiable instrument? Just where that point is I do not know. It is a doubtful question on the facts as they are.

Governor Strong. There is one thing about all this litigation about the par collection system which it seems

to me should be clearly brought out, and that is that the Federal Reserve Banks are entitled to know, either from the Supreme Court, Congress, or somebody, whether the act intendedthat we should have a par collection system or not. That is the real question. Whether the people in this country are entitled to have checks drawn on member banks cleared through the Reserve Banks at par. If the court holds that Congress intended that we should have a par collection system and we are to follow the letter of the statute then we can go to Congress for our remedy. I think the intention of Congress was clear enough.

Mr. Baker. I think some of you were present in the Supreme Court during the argument in the Pascagoula case and will remember that Mr. Justice McReynolds asked Mr. Smith, counsel for the Pascagoula Bank, "Is this a member bank, a National Bank?" And Smith said yes, and he said "Do you mean to contend that the Government cannot control its own creatures?" All the other members nodded assent to the proposition. They were all clear about that. I think it is true that the par clearing system has already proved to be of great benefit to the business interests of the country and that if there were any court decision which held that

the thing was to go by the board, that public pressure from the business of the country on Congress to re-establish it would be very great.

Governor Strong. If we could just get before the Supreme Court on that very ground, that is a decision I would like to see the Supreme Court make.

Mr. Baker. I have a lot of confidence in the belief that the Richmond or North Carolina case, and I say this with due deference and with all respect, was wrongly decided. I have always felt that that case was wrongfully decided. However that may be, I feel quite certain it will never be pushed any further. The doctrine laid down there is that the State of North Carolina, as a part of its polic powers, had the right to make this internal regulation of the business of the people. It was a police power of the State which it recognized. I do not believe that the Suprem Court will ever extend that to an individual bank as a member of this System and particularly to the member banks that are parts of the fiscal system of the Government.

Mr. Strater. There is a mechanical problem in connection with charging checks to the member banks account that may have some bearing on this. Two things might happen:

The checks be charged to the member bank's account and forwarded to the bank. It could either accept the check or r eturn it. The inference is that they would return it. Now, what would be the position of the Federal Reserve Bank of Atlanta, having charged the check to the member bank's account, if it came back to their hands by registered mail, or ordinary mail? What would they do with it?

Mr. Baker. They would just keep it. The mechanics of it, in practical banking, as I understand it, although I am not a practical banker myself, would be that the check would come in in ordinary course; you would send it to the Hartford bank for payment. They would send it back to you with the statement that the endorsement on it restricted it from being collected through the Federal Reserve Bank. You would send the check back to them marked "paid" and tell them that you had charged it to their reserve account. Then they would send it back to you in a registered letter and deny your right to charge it to their reserve account. You would then file it among your confidential papers and the check is paid the reserve account charged, and that the exact amount of their reserve is so many dollars; that you are holding the check in custody subject to their order.

That would seem to me to be the practical way to do it.

Mr. Strater. I am just wondering what happened when the Federal Reserve Bank accepted the check back.

Mr. Baker. You cannot help accept what somebody puts into your pocket. They send it to you and send it after you have given them complete opportunity to take the check, which is marked paid. So far as you are concerned, you send them the check, which you have charged to their account, and say "Here it is."

Mr. Strater. Suppose they accept the check but deny your right to charge it?

Mr. Baker. That raises the exceptions that Governor Strong spoke about. Ultimately their reserve would go to a place where the internal discipline of the System would impose penalties and they would be charged with that. You would notify them that you had charged that penalty. You would notify them that there was so much in their reserve account, that the reserve was deficient and that you had imposeda penalty. You keep on imposing two or three penalties in the meanti me, and I think it would not get very far before the Comptroller would notify the individual members of the board of directors and they would find out

what liabilities they were incurring.

Mr. Miller. Suppose it was a national member bank which made a practice of stam ping checks "Not payable through a reserve bank"? Would you feel that constituted ground for forfeiture of membership in the Reserve System?

Mr. Baker. I think it would, but if that question is raised with a national bank, we are very much stronger with the national banks —

Mr. Miller (Interposing:) But we have no remedy. We can cancel the membership of the State bank but not the membership of the National bank.

Mr. Baker. To the extent that we have power to elect where we will put pressure, to use the word in its least offensive sense, I would hope it would be with the National bank, because of course everything ought to be done that can be done to induce rather than reduce the membership of State banks of the System. However, to answer your question categorically, I think it would be ground.

Mr. Miller. I am have not been able, in following your analysis of the suggestions made, to see that they we would have any effective remedy. I should assume that the procedure in the case of the Hartford bank is a step in

a broad attack upon the par clearance system that is being taken under the advice of able counsel, as I presume it is being done, and they will be very careful to note that they must be very careful not to put us in a position of being defendants. In other words, they will try to throw upon us if they can the onus of being the aggressor. I have not seen anything yet which indicates a point at which we can take any form of action against them that does not seem to me to go beyond the strict purview of their rights in the Federal Reserve System. We have got to go into adjacent jurisdiction, the Comptroller's office, and I think Governor Young asked a question which has not been answered, and which I do not believe can be answered .

Governor Crissinger. Would these suggested amended regulations that you speak of cover it?

Mr. Baker. I suggest the regulations with great diffidence because they have to be fitted into the legal contents of the regulations as they are. Mr. Wyatt would be much more skilful in doing that than I would:

> "and each member bank and non-member clearing bank shall cooperate fully in this system of check collection and settlement of balances"

Governor Calkins. Pursuing Dr. Miller's point further, isn't it true that if the Board's regulations were so amended, andif a State member bank then violated that regulation, that the Board would have power to cancel its membership?

Mr. Baker. Obviously, in my judgment.

Mr. Miller. Then we have a remedy there.

Mr. Baker. Yes.

Mr. Miller. But we have no remedy to enforce a compliance with the obligations of membership on the part of National Banks.

Governor Harding. We have a remedy through the Comptroller of the Currency.

Mr. James. Yes, we have the right to direct the Comptroller to bring suit.

Mr. Miller. Yes, for violation of what?

Governor Crissinger. Of the regulations.

Mr. Baker. If I am right, I believe that we can demonstrate that this par clearance system is an object of the Federal Reserve Act, that it is related to the public fiscal policy of the country, that the statute is to be broad

construed to accomplish that, and that the Federal Reserve Board has power to make suitable regulations in furtherance of that. Then the regulations become a part of the Act. The Supreme Court has over and over again held, with regard to regulations adopted by the Interstate Commerce Commission, the Federal Trade Commission and other commissions, that where administrative power is given, power to make regulations, that so long as they are for the purpose of furthering the purpose of the Act they become a part of the Act in their legal effect, so that your regulation would then become a part of the law.

Mr. Miller. The Act reads "Should any National banking association in the United States now organized fail within one year after the passage of this Act to become a member bank" -- and so forth. That is all right. Then it says "any non-compliance with or violation of this Act"--

Governor Harding. Or of regulations of the Board made in pursuance of the terms of the Act.

Mr. Miller. Thereis nothing here about regulations.

Governor Harding. No one has power to make regulations except in accordance with the terms of the Act, and those regulations, as far as the member banks are concerned,

become a part of the Act.

Mr. Baker. I think so, as long as they are consistent with the terms of the Act.

Mr. Miller. But I do not see anything here that touches on that.

Governor Harding. Not in that particular case, but in every case where the Board has power to make regulations it is so. Look at sections 9 and 13.

Governor McDougal. Mr. Chairman, I would like to ask Governor Wellborn whether or not this practice has continued, whether it is the regular daily practice of this bank to issue their cashier's checks in that form.

Governor Wellborn. We have not received any more. We received one a few days ago from a bank in Cincinnati and we returned it. They wrote us that they didn't see why a check like that could not be collected through the Federal Reserve Bank.

Governor McDougal. Then there is no indication of a disposition to increase the volume of them?

Governor Wellborn. No.

Governor McDougal. Mr. Baker, I would understand from your discussion that you have reached the conclusion

that a bank is not within its rights to draw checks in this manner?

Mr. Baker. I think not, a member bank.

Governor McDougal. That question was raised by our counsel and he said he thought it was a doubtful question as to whether or not they were within their rights.

Mr. Baker. I admit the delicacy of the question, but that is my own judgment, that a bank is not within its rights. Mr. Miller is looking up the power of the Board in the matter of r egulations.

Mr. Miller. It strikes me that the action of the bank amounts to a nullification. There is no remedy and in the absence of a remedy to cancel membership we are virtually powerless.

Governor Crissinger. I do not think we are powerless, Dr. Miller.

Mr. Miller. I mean without resorting to some action that has no immediate relation to it.

Mr. Baker. I am obliged to admit that it has to be argumentative. There is no explicit statement, but the Hardwick amendment says this: "That nothing in this Act or any other section of this act shall be construed as prohibiting a member or nonmember bank from making reasonable charges, to be determined and regulated by the Federal Reserve Board, but in no case to exceed 10 cents per $100 or fraction thereof" -

Mr. Miller. I think that is all clear.

Mr. Baker. Let me follow this through:

> "--based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal Reserve Banks."

And the last provision of that is that no such charges shall be made against Federal Reserve Banks.

Now that I think is a sufficient basis for a comprehensive regulation by the Board saying that member and non-member banks may collect so much and only so much by way of exchange charges from everybody but the Federal Reserve Bank,k,but it may not collect any from the Federal Reserve Bank and may not put on its checks any prohibition of circulation of those checks, because that is perfectly germane to it.

Mr. Miller. I see no means in the Act by which we can enforce the purposes of the Act through regulations by the Board on recalcitrant National Banks.

Mr. Baker. If you are dissatisfied with the remedy of a suit by the Comptroller by the direction of the Board -- the remedy is there, although in your judgment it is not

adequate or satisfactory, still it is the only one we have.

Mr. Miller. Buut it strikes me that this forces you to seek a remedy at some point which has no relation to the failure to comply with the regulations of the Board, but forces you to go out of your way for it.

Mr. Baker. Well yes, that is so, but I think this attack, which is a very ingenious one, was one that was not anticipated and covered by the express language of the Act and therefore you have to take the intention of the Act and enlarge its scope so as to meet this thing which, we all agree, is hostile to the policy of the Act. You agree to that. You say you think it would act as a nullification?

Mr. Miller. Yes, I think so, and it can only be met by coercion. I cannot see that we possess any coercive power that is germane to this particular breach.

Mr. Baker. I am not sure that I see the difficulty others see in action by the Comptroller. Why do you think it is not germane?

Mr. Miller. Why, he is disciplining a member bank, one of his National Banks, not for a violation of its duty as a member of the par clearance system, but for a violation

of its duty in some other principle which may or may not be related remotely or directly with the terms of its par clearance obligations. In other words, my question, Mr. Baker, is this: In a private proceeding I think it would be entirely germane. I am just wondering whether the Board, in concert with the Comptroller, should go out of its way to find a roundabout course by which it can get back at a bank which feels that it is being aggrieved and that is within its rights.

Mr. Baker. But isn't this what is happening? The Comptroller is disciplining a National Bank for violating the regulations of the Board which results, or has a tendency to result, in a depletion of its reserve, which is a thing the Act is aimed to protect in the interests of the solvency of the general banking situation?

Mr. Hamlin. Section 19 of the Act provides "The required balance carried by a member bank with a Federal Reserve Bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities." There is sufficient authority for us to fix, by regulations, e very-

thing connected with the reserve balance. It follows that the Comptroller can charge that they have violated our regulations with regard to the required reserve.

Mr. Miller. I think the argument is that since the Federal Reserve Banks are required, by section 16, to accept all checks drawn on member banks, they must of necessity accept them and charge them to reserve account, and this attempted limitation creates a notion in the drawer bank that it still has a dequate reserve —

Mr. Hamlin. And they are violating our regulations prescribed in Section 19.

Mr. B aker. Yes, I think so.

Governor Strong. Mr. Baker, this check of course is owned by somebody. The Federal Reserve Bank is only the collecting agent, and if thebank on which it is drawn objects to its payment by this method, and we charge it against the reserve balance in the Federal Reserve Bank, what step can they take to maintain their position unless they pay the same check to the real holder, thereby paying it twice— in other words, if the real holder of the check gets the money as the result of this charge, aren't they then accepting payment of t h e check, except as to the exchange

charge? Have they any way of making an exchange charge? The result of charging the check to the account of the member bank is going to be that the real holder gets his money. If he gets his money and the member bank assents to the holder getting the money, then can they deduct an exchange charge? If we charge the check to our member bank's account the original holder of that check is going to get his money. He is going to get all of the money. The member bank says we maintain you have no right to charge that to our account. It is going to stop the holder of the check from getting the money, or else they will pay it over again.

Governor Harding. When the checks come to the Atlanta bank they send them to the Hartford bank and they are returned on account of the stamp. The Atlanta bank charges it to the Hartford bank's account. As soon as the Hartford bank realizes that the original holder of the check has gotten his money they are going to be very keen to get possession of the check again so that they can charge it to the account of the drawer. Otherwise the drawer might come in and ask "What isnmy balance?" He is told that his balance that much more than it ought to be. He draws that balance

out and the bank is out the money.

Governor Strong. I think the member bank is in a position where it has got to accept the fact of payment and charge it to their customer, in whosever interest the check is issued, and then the only issue between the member bank and the Federal Reserve bank is the exchange charge.

Mr. Baker. Any suit brought would be a suit to collect exchange charges from the Federal Reserve bank.

Governor McDougal. Would that be involved in the case of cashier's checks?

Mr. Baker. The same thing unless it is a cashier's check issued in some transaction between business men and not for account of a customer. Where you get that is where the check relates to some payment made in behalf of the customer.

Governor Talley. It seems to me thereis one point about this matter t hat has not been touched upon. Reference has been made to section 16, but only partial reference. The entire section 16 referring to clearing functions will have to be considered. It is true that Section 16 is mandatory with reference to Federal Reserve banks accepting checks drawn on member banks. But section 16 also goes on to say

that at the direction of the Federal Reserve Board the Federal Reserve Banks must act as clearing houses for their member banks. Now it seems to me that the function of a clearance house is merely to receive checks andpresent them and account for the proceeds of the check itself. I think we ought to consider whether or not we are not approaching rather dangerous ground, and probably upset the whole theory of our collection system, by trying to become responsible, in our clearance house function, for the act of a member bank in its attitude towards the payment of any certain check. It is not anything to us whether they pay it or whether they do not. Section 16 says that Federal Reserve banks must receive checks from banks, other reserve banks or their member banks, but it does not say that we should receive the checks if they are drawn in certain form, that in the absence of restrictive or crossing endorsements that we should receive them. It says if they are drawn on a member bank we should receive them. It seems to me all we have to do is just to receive the check, send it to the bank drawn on, and let the bank on which it is drawn do anything that it pleases with reference to payment.

If they send it back and the endorser bank refuses to pay it because it wasn't payable through the Federal Reserve Bank of Atlanta, it is nothing to us.

The Federal Reserve System, I think we can assume, has been accepted by the majority of the public and the majority of the banking fraternity.

I think we are getting unduly exercised over the action of some small, recalcitrant group and inferring what they might do. Let it go to the bank drawn on, be returned to the Federal Reserve Bank and then send it back to the endorser; then depend upon the reaction of public opinion with reference to that particular bank or group of banks.

I think if we get into the position where we are responsible for what the member bank does with the check, that then we assume responsibility in other directions - responsibility for collecting checks, getting the money paid to them — rather than confining our responsibility to what it is.

What we are trying to uphold is the collection system and we should merely perform our clearing house function of receiving the checks and presenting them.

Governor Wellborn. If this practice spreads it will destroy the par clearing system.

Governor Talley. If the public don't want it, let it be destroyed.

Mr. Miller. Do you assume that the language of the act makes clear that there is an obligation on the Federal Reserve Banks and the Federal Reserve Board to establish a universal system of par clearing?

Mr. Baker. So far as its members are concerned, yes, sir.

Mr. Miller. And it is our duty to see that that is done?

Mr. Baker. Yes, sir.

Mr. Miller. If the regulations are amended along the line suggested by you, why could you not bring suit to enjoin a member bank from printing on its draft "Not payable through a Reserve Bank"?

Mr. Baker. The only difficulty with that is that a bill for equitable relief is denied where there is adequate remedy at law. If the Court should hold you had power to discipline a member by this internal method of charging to their reserve accounts and that a suit by the Comptroller for forfeiture of charter was the statutory remedy exclusive of any other, it might defeat equitable jurisdiction.

Governor Strong. Suppose a case arose like this, a case of the most extreme type, where a customer's check on a member bank bore this legend on its face, the case is tried and the member bank maintains that their reserve account was not impaired because they did not admit the right of the Reserve Bank to charge the check to their reserve account? Then it was shown on the trial that notwithstanding their effort to maintain that position they had actually charged the customer's check to the customer's account. It would embarrass them very much, would it not?

Mr. Baker. Verymuch, yes.

Governor Strong. Suppose it was a case where the cashier had issued a check to some customer who wished to make payment out of the city, which is frequently the case. If that is refused, the check is chargeable against the member bank's account -- but possibly under those circumstances the provisions of the clearing house act would be effective --

Mr. Baker (Interposing:) I think you have to go on the assumption all the way through in consideration of this that the Federal Reserve Board not itself being a bank, but being a governmental agency, felt that it was charged with the duty of enforcing the policy of the Act and could not quite sit silent and see that interfered with, not because it had any financial liability, but because of its function to enforce the policy of the Act.

Governor Strong. May I ask Governor Wellborn whether the Hartford Bank deposits checks on him for collection?

Governor Wellborn. Yes.

Governor Strong. They do that regularly?

Governor Wellborn. Yes.

Governor Strong. Isn't their argument really this, that the Federal Reserve Act conferred certain powers upon reserve banks to perform certain functions that Congress intended they should perform, and that in all this type of cases what the member bank is endeavoring to do is to enjoy all of the benefits of the par collection system but still retain the advantages of not having it; that they are seeking to defeat the broad purposes of the law in the most selfish way possible, but still get every advantage out of it in defeating it?

Mr. Baker. It puts them in a very inequitable position, of course.

Governor Wellborn. You have a letter from one of the banks stating that their purpose was to get exchange. That was a letter written in reply to one from Mr. Robb, Chief National Bank Examiner of our District. We requested him to write, and the reply was that the idea was to get the exchange.

Mr. Baker. On their cashier's check, because they either had to charge for them or get an exchange charge in order to make some money. None of their customers had ever paid for a cashier's check, they said.

Vice Governor Platt. Is there any question about our right to fix a small charge for the payment of checks from other sources than a Federal Reserve Bank, say considerably less than one-tenth of one per cent?

Mr. Baker. You are limited to a reasonable charge --

Vice Governor Platt. Suppose we made it one one-hundredths of one per cent?

Mr. Baker. You are open to attack as to whether it is reasonable or not. If they were able to show that you had done it so as to destroy the privilege which Congress theoretically tried to restore to them, then it might be held to be unreasonable.

Mr. Hamlin. Section 11 seems to me to give us absolute power.

Mr. Baker. To make regulations and enforce them.

Mr. Hamlin. It is one of the functions and services that we are called on now to perform --

Mr. Baker. And it is clearly in harmony with the development of the last fifty years in Federal legislation, that is, having Congress announce policies and then turn over the administration of them, turn over to an administrative board the carrying out of those policies by suit-

able regulations. It is thoroughly in harmony with that.

Governor Seay. Is there any other member bank in the same place, Governor Wellborn?

Governor Wellborn. No, that is the only member bank.

Mr. Baker. Governor Crissinger has handed me the bill of complaint in the suit brought, to which he referred, and in the bill of complaint the officers and directors of the bank itself are charged with failure to establish and maintain the reserve required by law, and so forth.

Governor Crissinger. That was a solvent bank, in answer to the question which you asked, Governor Young, and the Court appointed a receiver for the bank immediately.

Mr. Baker. Governor Young, that point is in part at least answered by what Mr. Wyatt calls my attention to here. The Court stated: "The complainant in this case does not allege insolvency of the bank as a reason for forfeiture of charter", and so forth.

Governor Crissinger. The Attorney General refused to bring the suit, however, until the Federal Reserve Board, while Governor Harding was Governor, authorized and directed it to be done.

Governor Young. In that case there was no dispute —

Mr. Baker. In the case decided there is a dispute as to which one is right —

Governor Crissinger. Then it would become a question of fact.

Mr. Baker. It has no peril in it unless the situation has arisen which you have described, of the check having been turned back, and the question of inadequacy of reserve arising, and being

Governor Harding. The Reserve Bank's contention was upheld, in that there was no penalty for turning back checks.

Mr. Miller. Doesn't that put the Federal Reserve Bank in a position of taking advantage of the member bank's reserve —

Governor Harding. They charge on notice. The member bank would send for the check and charge it up to the customer. They would not dare not do that.

Vice-Governor Platt. In the case of cashier's checks they are already charged.

Governor Harding. It doesn't make any difference. Let them hold them in custody subject to the order of the member bank whenever they want it.

Governor Seay. Taking a hypothetical question, sup-

pose there were another member bank in that place; the Federal Reserve Bank might send that check to another member bank in the same place that was not in sympathy with it. Do you think the fact that the check had stamped on it "Not payable through a Federal Reserve Bank", would violate that clause if it was sent to another member bank in the same place and presented by that member bank?

Mr. Baker. And they presented it at the counter and collected it there?

Governor Seay. Yes.

Mr. Baker. No, I do not think that would violate the policy at all, but it does not help raise the issue.

Governor Seay. Except that it prevents the member bank from obtaining the exchange, which is the purpose of it.

Mr. Baker. Yes.

Governor Seay. If the other member bank was not in sympathy with it it could be defeated entirely.

Mr. Baker. I think it is a perfectly practical thing to do and I think it is perfectly lawful, but it does not do the things which I have assumed we all want to do, which is to establish the par collection system by every legal pro- buttress which it needs, so that everybody will know that

it is here and that it has got to be protected at every point.

Governor Seay. I understand that.

Mr. Hamlin. Do you think that new regulations should be at once framed?

Mr. Baker. As a practical course I would suggest that the Board authorize me, in conference with Mr. Wyatt, to draw up a regulation that will fit in with the existing regulations that are now being amended, and submit it to the Board.

Mr. Hamlin. I so move.

Governor Strong. And to include all of our circulars.

Governor Crissinger. Mr. Hamlin, we will have a meeting of the Board in a few minutes when that motion should be made.

Mr. Baker. The second step I would suggest is that the policy be adopted at once by the Federal Reserve Bank of Atlanta of not returning the checks, but of charging them against the reserve account of the bank, sending them for collection, and when they come back, when attention is drawn to no other defect in the check except the restriction "not payable through a Federal Reserve Bank", that

they be charged to the reserve account, and that they begin the prooess of accumulation, and the minute that bank's reserve is below the appropriate amount, that the Comptroller be requested to notify the directors of that bank of what is going on.

Governor Fancher. That applies to both cashier's checks and customers' checks?

Mr. Baker. Yes.

Governor Seay. The question has not arisen with regard to customers' checks, has it?

Mr. Baker. I think it has.

Mr. Fancher. Yes, we had a case.

Governor Crissinger. There are customers' checks involved.

Mr. Baker. I think a small check came through the Cleveland Bank.

Mr. Strater. That was a cashier's check.

Governor Crissinger. There is a customer's check here somewhere on the bank of Sampson, Alabama.

Mr. Baker. Mr. Wyatt had a copy of that check a moment ago. It is a personal check on the bank of Sampson.

Governor Crissinger. Here it is (indicating). It is

a counter check of a customer apparently.

Governor Seay. Is it known whether it was a counter check given to the customer or whether it was a customer's own check which he had printed?

Mr. Wyatt. I think it was a regular check and then a rubber stamp endorsement put on it, but I am not certain.

Governor Strong. I think we ought to get photostats of all these checks.

Governor McDougal. Has that check ever gone through?

Mr. Wyatt. This check was presented, I think.

Governor McDougal. This Hartford case is not the only case in question, then?

Mr. Wyatt. No.

Governor Crissinger. Mr. Baker tells me, gentlemen, that he has another engagement, but if you wish to discuss this further he will come back later.

Governor McDougal. It seems to me that notwithstanding what has been stated or determined here, that it would be perfectly proper for the Atlanta Bank to undertake to reconcile this matter direct with its member bank. It might be, as a result of a conference, that they would be willing

to discontinue the practice.

Governor Harding. I have had some experience in dealing with the banks down in that section, and I know their psychology. I think the Atlanta Bank would be in a much better position to talk to those banks after the regulations are promulgated than it would be now. I have been amongst them and I know them.

Governor Crissinger. If there is nothing further from Mr. Baker at this time he has stated that he will return.

Mr. Baker. I have to give testimony in a matter which took place while I was Secretary of War, in a matter about which I knew nothing at the time, and therefore know less about now, if it is possible for anyone to know less than nothing. It is in the Court of Claims. I presume you gentlemen will be in session all day.

Governor Strong. Yes.

Mr. Baker. Then I will come back this afternoon.

(Whereupon, at 12 o'clock Noon, the Members of the Federal Reserve Board and Mr. Baker retired from the Conference Room, and the proceedings of the Conference of Governors continued as follows:)

The Chairman (Governor Strong:) The meeting will come to order. I think Mr. Baker expects to hear some expression from the meeting about these suggestions that he has made as to the course of procedure. Does the meeting wish to take any action in the way of approval or disapproval, or definition? I would explain what I had in mind. Mr. Baker apparently is expecting, if there is no serious disagreement, to prepare something in the nature of a very specific advice to the Reserve Banks, first as to changes in the regulations of the Board and changes in the circulars of the Reserve banks, and I take it there will be no dissent as to the wisdom of his going ahead with that. Is there any dissent?

Governor Young. I come down to the question in my mind as to whether it is not better to let it die a natural death? Really that is what I had in mind. But if it is the opinion of the others that we should go ahead with it to find out where we are, it will be all right with me.

Governor McDougal. If this could be handled without giving it any publicity I think we would be in a much better position. Any publicity given to it might arouse

interest in some of the other banks. That is the reason I suggested that the Atlanta Federal Reserve Bank might be able to handle the situation. I do not see any reason why it should not at least undertake to do so, in so far as that one instance is concerned. I do not know what bank the check was drawn on of which we saw a copy. It was on the same bank, was it not?

Governor Crissinger. No; this is a counter check drawn on a member bank at Samson, Alabama.

Governor McDougal. Have any of those checks reached your bank, Governor Wellborn?

Governor Wellborn. They come to the bank and we send them down. Sometimes they take them and do not raise the issue.

Governor Norris. Are those two towns near together, Governor Wellborn?

Governor Wellborn. Yes, they are very close together.

Governor Bailey. Was this last one a national bank or a state bank?

Governor Seay. I would like to ask Governor Wellborn if he thinks or suspects that this practice has sufficient animus behind it to induce other banks to follow it?

Governor Wellborn. I have heard nothing from these people, had heard nothing until this matter came up the other day. I was away when Governor Harding wrote to us. I do want to say this, that I do not think there is any concerted movement by any member bank, or any conspiracy.

Governor Harding. The way the thing works out is that these banks have group meetings, they have their State associations, and pretty soon some of the little country banks at those meetings will say that they have found a way to beat the exchange, they will tell how they do it, somebody will say "Well, that is a good idea", and the first thing you know it will spread like measles.

The Chairman. Mr. Harrison calls my attention to the fact that Section 5, Regulation J of the Federal Reserve Board, provides that any Federal Reserve Bank may reserve the right in its check collection circular to charge such items to the reserve account or clearing account of sny shb

any such bank at any time or in any particular case the Federal Reserve Bank deems it necessary to do so.

Governor Wellborn. I did not understand that, Governor Strong.

The Chairman. Regulation J, Section 5, contains a provision that any Federal Reserve Bank may reserve the right in a check collection circular to charge such items to the reserve account or clearing account of any such bank at any time or in any particular case the Federal Reserve Bank deems it necessary to do so. Does your check collection circular contain the provision to charge items to the member bank's account when you decide it is desirable to do so?

Governor Wellborn. Our checks collection circular is uniform.

The Chairman. Then you do not make that charge which you have the right to make?

Governor Wellborn. Governor McDougal said he thought we might adjust it with these banks. Did I so understand you, Governor McDougal?

Governor McDougal. I say I thought it might be possil

to do so.

Governor Wellborn. We have discussed that in our bank. The matter was referred to Mr. Baker and we thought it would be best not to do anything until action was taken up here because we might make some mistake, and in case of a law suit we thought we should be very careful.

Governor Biggs. Do you know the officers of the bank personally?

Governor Wellborn. Yes. It is a good bank. The president doesn't come to the bank very often, probably once or twice a year. He does not borrow any money from us and does not rediscount any paper with us.

Governor Young. In Minneapolis there is great feeling on this par collection of checks on the part of the member banks and I think they would adopt anything that was brought to their attention. I was hoping that this thing might die a natural death.

Governor Bailey. Are your banks all against the par collection?

Governor Young. Yes, everywhere you go. They are bitter about it.

Governor Seay. Do you mean the banks or the public?

Governor Young. The banks. If a check of that kind came to Minneapolis I would send it out there; if they sent it back and would refuse to handle it, call it to the attention of the Board to see if we were operating along the right line. We just lost one case. I do not know enough about the law to speak intelligently upon it. I have put some of those cases up to our counsel since this Hugo decision and he seems to hesitate about it and wants more time to look it over.

The Chairman. I am just trying to make a record for Mr. Baker. He is coming back this afternoon. I will suggest one, just as a method of procedure, and when I have finished you may shoot at it:

That in considering the statement made by Mr. Baker, in regard to the legend stamped on checks by certain banks in the Atlanta Reserve District, the meeting, after discussion, came to the following conclusion:

First, that Mr. Baker be asked to advise the Federal Reserve Bank of Atlanta as to the desirability or undesirability ot endeavoring to adjust this practice by negotiation rather than to instituteany proceedings or take any

steps preliminary to the institution of proceedings -- that he be asked as to the wisdom of that.

Second: In case it is decided not to attempt to negotiate an adjustment or settlement of the difficulty, the meeting favors the procedure which he suggested and request him to redu ce it to writing in the form of a letter, so that the Atlanta Bank in handling the checks which we may send to him, and the other Reserve Banks in handling these checks, may be guided in their procedure; that we hope to receive his advice as to amending present Regulation J of the Federal Reserve Board and the circulars of the Federal Reserve Banks governing this point, and that in our opinion it would be desirable that the Federal Reserve Bank instruct their transit department to be on the lookout for checks of this character, of all of which photostatic copies should be taken for the use of counsel.

This is the sense of the meeting as I get it from the general discussion. Is there any objection to this?

Governor Calkins. That is based upon the assumption that Mr. Baker's first suggestion be followed; that is, that the Board make a regulation and then ask the Comptroller to take action if the bank violates the amended regulation?

The Chairman. I understood his advice at present only to go so far as to indicate the course of action in handling the checks, as will make a foundation later if it was then decided to call upon the Comptroller, or have the Federal Reserve Board ask the Comptroller, as the statute provides, to bring action against the bank or to give notice to its directors, prelimimary to action, that they are violating the law because of their impaired reserve.

Governor Calkins. There is one question which occurs to me to be vital and which has not been adequately discussed. I would like to ask Mr. Harrison, in his capacity as counsel for this Conference, whether in his opinion that regulation of the Board permitting or giving the Federal Reserve Board banks the right to charge to the member bank's reserve account items drawn on the member bank, would apply, or is valid and enforceable, as applied to checks drawn by a depositor of the member bank, bearing such notation as has been under discussion? Has the Federal Reserve Board, in other words, by regulation, power to direct a Federal Reserve bank to charge the account of the First National Bank of Hartford a check drawn on the First National Bank of Hartford by John Smith, bearing the notation, placed on the

check by the drawer, providing that it shall not be paid through a Federal Reserve bank. I do not believe the Board has any such power.

Mr. Harrison. I want to deny the compliment that I am counsel for the Conference. In the second place, I would hesitate, without any consideration of the matter, and I have given it no consideration until the meeting here today, to render an informal opinion which seems to be contrary to what Mr. Baker says, because he has given a great deal of thought to it. My own reaction at the moment would be to accept for granted Mr. Baker's judgment on that point.

Governor Calkins. But Mr. Baker did not give his judgment on that point.

The Chairman. Yes, he did, very clearly.

Governor McDougal. He gave it in answer to my inquiry as to whether he thought they were within their rights in putting it on. He said he thought they were without their rights.

Governor Calkins. If the bank puts it on. My question is w hether it is within the power of the Board to prevent John Smith from making such a notation.

The Chairman. He answered that question specifically.

He said he thought it was a very close question and one that raised many difficult problems, because it could only be answered argumentatively as to what the implications of the statute were rather than the specific language of the statute.

Mr. Harrison. I should think, Governor Calkins, that if Mr. Baker's judgment is correct that the Board could prohibit the banks putting it on, because of the general philosophy and theory of the act, that it might reasonably be presumedthat the Board could prohibit the member bank from entering into an arrangement or agreement with one of its depositors which w ould be equivalent to the same thing.

The Chairman. Aren't we really wasting our time in discussing this question when we have retained eminent counsel learned in the law?

Governor Young. Yes, I think so.

The Chairman. Why not take some such action as suggested and let counsel struggle with these legal questions?

Governor Seay. With reference to the amending of the regulations of the Board, there still lingers in my mind the question of whether we are not treating this matter too seriously. I am inclined to think that an amendment to

the regulations of this character is more or less of a serious thing and would, upon its face, imply that this was a situation in the country generally which needed to be met. The question in my mind is whether or not, before this regulation is prepared, there should not be some effort on the part of the Atlanta Bank to get this bank to abandon its position in the matter.

The Chairman. That is all covered in my statement, Governor Seay.

Governor Seay. Very well. I did not understand it that way.

The Chairman. I said it is the sense of the meeting that Mr. Baker be asked to advise the Federal Reserve Bank of Atlanta, before undertaking the prooedure, that is suggested, whether it should not be or could not be handled without undertaking that.

Governor Seay. You mean before the passage of the regulation?

The Chairman. Yes, before anything is done.

Governor Seay. I agree with that. I do not understand the motion to be to that effect.

Governor Talley. Mr. Chairman, I do not believe I would

be properly representing the views of our bank if I did not ask counsel who is considering the question of amending the regulations, to look carefully into the effect of such regulations upon the liability and responsibilities of the Federal Reserve Banks in reference to the collection of all other kinds of checks. I think we ought to at least ask them to do that. I have this paragraph, under another subject, which is quoted from the opimion of our counsel: "We are of opinion that the Federal Reserve Bank should stand squarely upon the s oundness of the present method of collecting checks and should assume no uncalled for duties or responsibilities. To go beyond this gradually leads to the Federal Reserve Bank should insure the collection of checks and places us beyond the category of using ordinary care."

The Chairman. Is not that a question for you to present to the counsel of the Board?

Governor Talley. You started out by saying that any reactions that we had should go to counsel in connection with their further study, and that would be in order.

The Chairman. We are going to see the amended regulations before they are put out. I think the real question is raised by this subsequent discussion, which is, to my mind, an

important one, and that is whether it is going to be wise, as a matter of tactics, in the case of these two isolated banks, to let that be the reason for amending the regulations and all of the circulars and thereby drawing attention of all par banks to a practice which would have to be corrected and which might embarrass us a good deal if it spread. That is a question that counsel ought to consider. I will secure a transcript of the statement I made about the sense of the meeting from our Reporter, adding this point about giving notice to all member banks of the practice.

Governor Wellborn. I think Governor Harding covered that pretty well when he said it is liable to spread because of the banks attending these group meetings and state conventions, and so forth.

The Chairman. That ought to be brought to Mr. Baker's attention, because it was not mentioned this morning.

(Whereupon, at 12:30 o'clock p.m., upon motion duly seconded, the Conference recess until 3 o'clock p.m. of the same day.)

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AFTER RECESS.

The Conference reassembled after recess at 3 o'clock p.m., on May 9, 1927.

The Chairman. The meeting will come to order.

Governor Norris. Mr. Chairman, may we not dispose of Topic I-H before Mr. Baker arrives?

I. CREDIT TRANSACTIONS AND POLICIES

H. The possible effect of decision of Supreme Court of Texas in rendering trade acceptances non-negotiable where they contain the clause: "The obligation of the acceptor hereof arises out of the purchase of goods from the drawer, maturity being in conformity with the original terms of purchase."

The Chairman. Are you ready for that, Governor Talley?

Governor Talley. I do not know that that is anybody's trouble but our own right now. The day I left we bought some bills from a local bank, banker's bills, and the eligibility stamp on the bill said that those bills arose out of export and import transactions, and so forth. They embodied the same language, or similar language, to that which was used in this trade acceptance case, which was held by the Supreme Court of Texas to render trade acceptances non-nego-

tiable. I have just been wondering whether we would be stopped, under this d ecision, from buying bankers' bills that have any e ligibility stamps on them. It is my understanding that the language on the trade acceptance, that "the obligation of the acceptor thereof arises out of the purchase of goods from the drawer, maturity being in conformity with the original terms of purchase" is an eligibility evidence and therefore the eligibility stamp on the bankers' bills, under this decision, would ren der the bills non-negotiable.

The Chairman. We have a suggestion on that matter.

Governor Talley. While I have the floor, if I may, our counsel wrote me a very brief memorandum, which is as follows:

"While we do not agree with the statement quoted from the opinion of our Supreme Court, I do not believe that the holding is in conformity with the weight of authority and best line of reasoning, we understand that a motion for rehearing has been overruled and that the case is now the established law of this State. We believe, however, that its effects will be confined largely to the wording referred to in the opinion or other similar wording and do not anticipate

that the decision will have the effect which might be imagined from the language employed in the opinion. It would appear from a literal interpretation of the language used by the Supreme Court that the only negotiable instrument would be one executed as an accommodation. But we feel sure that the Supreme Court had no such intention and that the decision will not serve as a dangerous precedent along this line. While it will be inconvenient from the business public to depart from the language formerly in general use similar to that on the trade acceptance involved in the case of Lane Company vs. Crum, et al, still this obstacle is not insurmountable and, therefore, we are not inclined to fear that the effect of the case will seriously embarrass the proper handling of business on a trade acceptance basis."

I infer from that he means that the language left off in future transactions, that the trade acceptances will be eligible and that the banks handling them would be put on inquiry as to what transactions they represented.

The Chairman. The impairment of negotiability arises from the use of the words "maturity being in conformity with the original terms of purchase."

Governor Talley. He did not think so. His inference was

that it was the entire clause. I asked him if the decision would have been likely if the language you just quoted had been omitted and he said he did not think so.

Mr. Harrison. Would the objection do you think, be as great if the form of acceptance were amended to comply with the suggestion of Mr. Paton, counsel for the American Bankers' Association, changing the form from the one which was issued in that case that reads "The obligation of the acceptor hereof arises out of the purchase of goods from the drawer," to read "this instrument arises out of the purchase of goods from the acceptor, by the acceptor from the drawer". That almost paraphrases the provision in the negotiable instrument act which says that an instrument will not be rendered non-negotiable because it has such a clause.

Governor Talley. That language is pretty well in consonance with the instrument itself. That is practically what the instrument states.

Governor Norris. As I understand the law, under the negotiable instrument law the obligation may contain a statement of the transactions which give rise to it.

Mr. Harrison. Which give rise to the instrument?

Governor Norris. Yes, without affecting its negotiabil-

ity. If the clause quoted stopped after the word "drawer" it would be within this provision. It goes further, however, and in terms leaves the maturity of the obligation uncertain.

The Chairman (after Mr. Newton D. Baker had entered the Conference Room:) Gentlemen, Mr. Baker has returned and we will drop this topic for the time being for a little further di scussion with him.

Mr. Baker, after you left we had a further talk about this problem and while there was no vote and we took no formal action, I would like to recount the suggestions that arose in the course of the discussion, and give you an idea of the reaction of the meeting.

The first suggestion that two or three here seemed to think might be considered, was whether it would be wise to have a conference with the counsel for the Reserve Bank of Atlanta and consider whether some adjustment of the matter could be arranged with these member banks, by which they would discontinue the practice and so avoid raising the issue altogether. It was brought out that such a conference might have the effect of endangering subsequent legal proceedings if incautious arrangements were made, and we wanted to ask you what you thought of it.

The second suggestion was as to the advisability of an amendment to Regulation J and to all the twelve circulars of the Reserve Banks of a character which would draw the attention of every bank in the country to a possible means of evading or defeating the par collection system and whether or not it might not invite a widespread attempt to do so.

The third point, to which I think quite a little importance was attached, was whether the particular procedure which you have in mind, and the change in the regulation, might in any way involve an abandonment of any of the positions which we have taken in previous cases or effect any considerable change in the procedure of the Reserve Bank in handling items, so that we would possibly add some new peril or liability to the operation of the collection system.

With those suggestions in mind, I think it was the general feeling here that we all want to follow your advice as to how these checks should be dealt with as they come through; that after you had considered these suggestions and if you felt that we should pursue some particular course, that it would be very helpful if you would give us very particular directions as to just how that course should be pursued. For example, the question was raised as to whether that check

sent to the First National Bank of Hartford should be charged to their account immediately according to the time schedules under which we would charge it to the member's account, or whether we should wait until the check was returned and then charge it to the member's account? That is simply a sample of the possible differences in methods. We feel the directions given should not only comprehend advice to the Atlanta Bank but also to those Reserve banks which may happen to receive some of those checks for collection and forward them to Atlanta. It was also suggested that it might be well, if we pursue any given course, to fortify ourselves by getting photostatic copies made of all these checks which may come into the possession of any of the Reserve banks or their branches, in order to see just what the development amounted to.

Mr. Baker. I have considered, since we were here this morning, some of the suggestions that grewout of the meeting. Governor Wellborn's suggestion has been in my mind. I know very intimately the quality of mind, the conduct, discretion and judgment of Mr. Parker, who is counsel for the Atlanta Bank. He would be very sensitive to any possible action that might be against subsequent litigation. I was going to

suggest to you that it seemed to me wise that Mr. Parker come to Washington and sit in with Mr. Wyatt and me while we talk this whole thing over, and get pretty thoroughly in his head what/the subsequent legal steps would be. Then when he went back to Atlanta he could sit in with Governor Wellborn, or whoever was going to see these gentlemen, and be present as advising lawyer at least so that there would not be any likelihood of anything being said that might subsequently be regarded as oppressive or prejudicial to litigation.

Governor Wellborn. I think that would be a proper thing to do, to have him come up here. He has written me a letter that I would be very glad to turn over to you (handing paper to Mr. Baker).

Mr. Baker. I would like to see it, and I would also like to see Mr. Parker.

Governor Wellborn. I am surehe will be glad to come and we certainly will be glad to have him come. He has charge of all of our litigation.

Governor Seay. With reference to your suggestion as to the time when these checks should be charged to the member bank's account, it is well to bear in mind that there are two methods of collection used by the Reserve Bank. One is

the remittance method and the other is to charge after the lapse of a certain time. It will be well not to overlook those two methods.

Mr. Baker. May I take up the second suggestion that Governor Strong made? That one had not occurred to me, that w e might be putting them on notice by putting something in the regulation that would show them all how to do it. It seems to me, from reading the regulation since I have been here this morning, that real ly no change in the regulation is necessary, but as the regulations are in course of revision anyhow, it occurred to me we might add to the second portion of Section 2 of the regulations the sentence which now reads "Each Federal Reserve Bank shall exercise the functions of a clearing house and clear checks under the general terms and conditions herein set forth", the words "each member bank and non-member clearing bank shall cooperat e fully in the system of check collection", put it in the affirmative, and not say that they shall not do this, that or the other thing which they might thereby be tempted to do. By expressing it in the affirmativeit is their duty to cooperate, and then of course any obstructive thing that they do is doubly not cooperative. The language suggested here is Mr. Wyatt's.

I think to put it in the affirmative obviates the danger that we were discussing.

Now as to the third suggestion of Governor Strong I am not quite sure that I got just what that means, that is newdangers that might be incurred by departing from the traditional methods of dealing with these things.

The Chairman. You have an opinion on that from someone in your office, have you not, Mr. Talley?

Governor Talley. Yes. I read this morning from an opinion of our bank on the question of requiring examination reports from non-member banks. While the opinion does not discuss the question that we are discussing now it is germane to it in my judgment. It is:

"Accordingly we are of the opinion that Federal Reserve Banks should stand squarely upon the soundness of the present established method of collecting checks and should assume no uncalled for duties or responsibilities. To go beyond this gradually leads to the thought that the Federal Reserve Bank should insure the collection of checks and places us beyond the category of using ordinary care."

It would seem to me that that was germane to this question because we might assume responsibility for collecting

them if we charge the check to the reserve account, which is not a responsibility that we assume in connection with any other check. We simply endeavor to exercise the functions of a clearing house, to recei ve the checks, send them out according to the method which, in our judgment, is the best, without any responsibility for having done so. If the check is not paid it merely comes back and we return it to the endorser. So it seems to me that if we should undertake to collect a check of this character, simply by reason of having been forced to take it under the terms of Section 16, simply and go so far as to charge it to the member bank's reserve account, that we are establishing a precedent under which we undertake the actual collection of a check, instead of merely its presentation to the drawee bank and a report to the owner of the check.

Governor Norris. I should think that this could be distinguished in such a way as not to serve as a precedent, by reason of the fact that what we are aiming to overcome or checkmate here is a peculiar distinction against us. Here is a check that is collectible in any way in which it comes except through a certain agency, through the single agency of a reserve bank.

Mr. Wyatt. When the committee was drawing up this regulation J we had in mind the very danger that Governor Talley has mentioned, that if you reserved the right to charge the checks to the member banks we were afraid in some cases where you did not charge them you might be held liable for not having charged them, so the provision of regulation J authorizing the Federal Reserve Bank to reserve the right to charge was written very carefully. I would like to read it to you:

"provided, however, that any Federal Reserve Bank may reserve the right i n its check collection circular to charge such item to the reserve account or clearing account of any such bank at any time where in any particular case the Federal Reserve Bank deems it necessary to do so."

This could be used to cover special emergencies in special cases, and those would be such cases. In fact the Atlanta Bank's collection circular has followed that language almost exactly.

Governor Seay. I might add that there weretwo particular contingencies in mind, as I recall, when that was made. One was that the member bank might not remit to them, might not send its check for the remittance in time, it might take its

own time; the other was that the Federal Reserve Bank might have knowledge of the fact that that bank was in a precarious condition and might exercise its right to charge the check to the bank as soon as it knew it had reached it.

Mr. Wyatt. That is what we had in mind, yes.

Mr. Baker. I think it might well be that after you had tried that out for a while you might feel that the thing was carrying the System into a practice which you did not want to grow up as an established practice, and some shorter cut might then be necessary, after you had learned what the disposition of these recalcitrant banks was going to be. At the outset I have some confidence in, although Governor Harding has warned us not to have too much, a peaceable solution.

Second, I think that when these checks are sent for remittance and they are sent back to the Federal Reserve Bank and the bank is then notified that that check has in fact been charged to its reserve account, that a very different atmosphere will exist in those banks and they will begin to be more serious about it. Then if the Comptroller, cooperating with you, will notify the individual directors that that bank is at variance with the regulations, we can see whether it does not produce the proper psychological effect. During that

length of time we will discover more about their disposition, whether these are just exceptional, sporadic cases, whether they will see that they have made a mistake, say that they are sorry, and to discontinue the practice, or whether it is a settled, concerted plan which the old adversaries of the par collection system have devised to attempt to defeat it, whether they are backed by any organized group of banks who are going to help them stand the pressure -- then we will know exactly what sort of contest we are in.

The Chairman. And that will be disclosed very promptly if we charged the checks.

Mr. Baker. Yes.

Governor Seay. There must ba a distinction between a cashier's check and a customer's check. With a cashier's check, with this legend upon it, a bank might refuse to pay it because it came from a Federal Reserve Bank, but a different situation arises with a customer's check.

Mr. Baker. I see some obvious differences, Governor, but which one seems the more important one to you?

Governor Seay. Governor Talley did not want the Federal Reserve Bank to be placed in the position of undertaking to collect any kind of check in any event. I say as between

those two situations there is a palpable difference. Here is a check drawn by the bank itself.

Mr. Baker. You think it is a stronger case in the case of a cashier's check?

Governor Seay. Very much stronger because drawn by the bank itself, and because of the fictitious reason in the other case --

Mr. Baker. I grant you it is different.

The Chairman. In the early days of the problems of the collection system we undertook to give immediate debit and immediate credit, which was unworkable. As I recall it, our attempt to do so was based upon an opinion which was given which raised considerable doubt as to whether we had the right to make that charge unless the member bank agreed to it. The first attempt at establishing a nation-wide collection system was based upon a circular or regulation which was, in fact, an agreement upon the part of every member bank that we might charge checks against their account immediately when they reached our hands. Of course we all discovered shortly the absolute folly of that plan. To charge a member bank's check against reserve account might be more justifiable under the terms of the circular and the regulation than to charge

any bank with any check which came back from a member bank, drawn by a customer, just because it bore that legend on its face.

Governor Calkins. The distinction which Governor Seay calls attention to would not exist, however, in case the member bank had induced the customer to make the notation on the check, but only in case the customer had, of his own motion, made that restriction. If it was possible to show that the member bank had induced its customer to place the notation on the check it seems to me there would be no distinction.

Governor Fancher. May I inquire from Governor Wellborn what procedurehe employs in sending out those checks to the member banks? Do you send on the remittance basis or do you wait for the transit time and charge the reserve account?

Governor Wellborn. We wait for the transit time and charge it up. That is the only fair way to do it.

Mr. Baker. In the conference I am suggesting to be held between Mr. Parker, Mr. Wyatt and myself, I think we would have to consider the two methods, the remittance method and the time charge, and outline a course of procedure to follow which we think would be more desirable under the conditions.

Governor Talley. Mr. Chairman, may I observe that we send checks on the remittance basis only and do not reserve to ourselves, in our collection circular, the right to charge the total amount of remittance letters to member banks' reserve accounts? We do not want to be put in the position of having seized any part of the member bank's assets to recover payment of checks which we have received for collection.

The Chairman. Then you have no float down there?

Governor Talley. What is that?

The Chairman. You have no intradistrict float.

Governor Wellborn. In this proposed meeting we would welcome some one from the outside to come with us and give us the benefit of their persuasive powers. I do not think all the responsibility ought to be thrown upon the officers and counsel of the Atlanta Bank. It seems to be a very serious question, and the more we discuss it the depper we get into it.

Governor Seay. May I ask Mr. Wellborn if this situation is known to the Atlanta member banks?

Governor Wellborn. No, we have never said anything about it. We have kept it a profound secret and we are just waiting on what is d one up here so we can proceed. We have discussed it in the bank and one of our officers thought that we ought

to send for these people right away. I did not think it was the proper thing to do. I thought we ought to act on the advice of counsel because there was liable to be a lawsuit, and if you are going to have a lawsuit you aught to be careful.

The Chairman. Should not the decision as to how that meeting should be arranged rest with counsel after they have met here with Mr. Wyatt?

Governor Wellborn. Yes, I would like to have Mr. Wyatt and Mr. Baker --

Mr. Baker. We would have to consider that. Let them see that outside counsel were interested too?

Governor Wellborn. I think it would be the part of wisdom for someone to come in.

Governor Seay. On the other hand, might that not cause the bank to think that the matter is being treated with a good deal of importance?

Governor Norris. They could think we are magnifying the situation.

Governor Seay. It seems to me it would be well to have a course mappe d out and let the Federal Reserve Bank authorities pursue it to the end.

Governor Wellborn. We have already given it some importance by requestingrthe Chief National Bank Examiner to write to one of the banks. He wrote to them and they replied immediately and said that they wanted to make the exchange. I do not remember the exact words but that letter is here somewhere. I think the Conference ought to get the benefit of that letter to see what their attitude is.

Mr. Wyatt. I have the letter from the First National Bank of Samson, Alabama, to the National Bank Examiner. The Chief National Bank Examiner addressed a letter to the bank and this is the reply of the First National Bank of Samson. It is dated April 19, 1927, and is as follows:

"Answering your letter of the 15th, regarding why we stamp on the face of our checks 'NOT PAYABLE THROUGH FEDERAL RESRVE BANK", beg to advise that this is done to keep from remitting at par, and in order that we might be compensated in a small measure for issuing cashier's checks. It has never been the custom of banks in this territory to charge for issuing cashier's checks, in fact none would probably be issued if they did, and the customer who buys the check accepts same with this stamp on it, and they are issued and sold with this understanding. We sell them at par with

the stamp on them, or the customer has to pay for them, and we have never been paid for one yet.

"There is no discrimination against the Federal Reserve Bank. They lose nothing by not handling it. We do the losing. It is a matter that concerns us and our customers only.

"With kind personal regards, we are,

"Yours truly."

The Chairman. That is the same bank on which a customer drew a check that bore that exact language?

Mr. Wyatt. Yes.

I would suggest that you gentlemen invite Mr. Strater to sit in with you on this matter.

Mr. Baker. We should be very glad to have Mr. Strater.

Mr. Wyatt. I would like to correct two statements made here this morning. I was asked this morning if the Federal Reserve Bank of Boston could send these checks direct to the drawer bank in the Atlantic Dist. for payment, and I said yes. I was considering only the statute. We could not do it under the existing regulations because the regulations require the Federal Reserve Bank which receives a check on another district to send it to the Federal Reserve Bank of that district.

The Chairman. They could not do it under the law?

Mr. Wyatt. Yes, but not under the regulations. Apparently Congress intended that such checks would be sent to the Federal Reserve Bank of the district on which they are payable, but it did not require it. We take the position that since they have authority to receive checks upon them from other districts that they incidentally have authority to collect such checks. The law does not distinctly require it but I think they could do it if it were not for the regulations. It would be contrary to what Congress apparently contemplated, and I think it would be inadvisable to do it.

The other statement I had reference to was the statement of Governor Wellborn, challenging the statement I made in my memorandum that the Federal Reserve Bank of Atlanta had taken the position that the checks were not negotiable. I would like to read a paragraph from a letter from Mr. Bell, cashier of the Atlanta Bank, to Mr. Willett of the Boston Bank, as follows:

"In the opinion of our counsel, and we believe also the counsel of the Federal Reserve Board, such checks are not negotiable, in that they are not an unconditional order for the payment of funds in cash, and that as a consequence Federal Reserve Banks have no power or authority to require

member banks using this phrase on their checks to remit for such checks at par. Therefore, under the conditions of the Federal Reserve Board Regulation J, they cannot be handled by Federal Reserve Banks for collection, because they are not payable at par."

Governor Wellborn. The paragraph just above the one you read refers to checks payable in curren t exchange and he is referring to such checks as those, not the others.

Mr. Baker. You will remember that in the case invalving the Alabama statute we succeeded in getting Mr. Parker to lose his case -- it simply held that the act was unconstitutional and the Board of Governors, as I recall it, agreed that it would be unwise to appeal that proposition. With the judgment in the District Court as to the unconstitutionality of the Alabama act to start with, it is rather a helpful situation. The other thing Mr. Wyatt refers to is also helpful, and that is if we ever have to bring suit on a check and we can get a check that is sent in from some other Federal Reserve District to be collected through the Federal Reserve Bank of Atlanta, then we can say that under the regulations it could take no other course for collection, and it would be a very much stronger case for us than a domestic check, that is domestic to the

district.

Before any further advice goes out to the Federal Reserve Bank, even, I think it would be very desirable that each Governor instruct his transit man to look out for these checks, and not devise different courses of tratment for them, but send them all in in the normal course, to the bank of the district on which they are payable.

Governor Wellborn. Do you mean return them to the banks that send them?

Mr. Baker. No, I mean if Bost on gets a check on your district, that instead of attempting to send it direct or r eturning it as not being collectible through the Federal Reserve Bank of Atlanta, that they send it to you for collection.

Governor Harding. If that is to be the case, why not have all the photostats of the checks made in Atlanta?

Mr. Baker. If that is the only place the disease breaks out, yes.

Governor Seay. Atlanta, when they find that legend stamped on a check, ought to send that check into the bank.

Mr. Baker. Clearly, so as to make sure that the only reason for refusal is the legend. I think perhaps it would

be well to send them in in the ordinary cash letter and then if they send them back, calling attention to the legend as the only reason for not paying or not remitting, you should then charge them to the reserve of the bank and notify the bank.

Governor Seay. As I understood Governor Wellborn he said he had stoppe d receiving checks of that character.

Governor Wellborn. Yes. We sent themm back because they had declined to pay them.

(Whereupon Mr. Baker retired from the Conference Room.)

The Chairman' The Board is waiting for a meeting with the open market committee now. If there is no objection this Conference will adjournat this time and reassemble tomorrow morning at 9:30 o'clock a.m.

(Whereupon, upon motion duly seconded, the Conference adjourned, at 4:15 o'clock p.m., until tomorrow, Tuesday, May 10, 1927, at 9:30 o'clock a.m.)

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S E C O N D D A Y.

Tuesday, May 10, 1927, 9:30 o'clock a.m.

The Conference of Governors reconvened, pursuant to adjournment of yesterday, at 9:30 o'clock a.m.

PRESENT: (As indicated in yesterday's record.)

PROCEEDINGS.

The Chairman. The meeting will come to order. Mr. Strater is here from Cleveland. He arrived here ahead of Mr. Kenzell, so we will hear from him first, his report for the collection committee, Topic 2-A.

II. COLLECTIONS AND CLEARINGS.

A. Report of Standing Committee on Collections.

Mr. Strater. The report is short, Mr. Chairman, and I think the best t hing to do would be to read it.

The Chairman. Very well, proceed.

Mr. Strater. The report of the Standing Committee on Collections of the Conference of Governors is as follows:

TO THE CONFERENCE OF GOVERNORS

The Standing Committee on Collections begs to submit herewith its report on the following topics:

REVISION OF TIME SCHEDULES WITH A VIEW TO REDUCING FLOAT AND AVOIDING EXISTING INEQUALITIES.

This topic was first submitted to this Committee at the Conference of Governors held in November, 1925, and the Committee has submitted periodical reports of the progress made in attempting to correct inequalities and inconsistencies in the time schedules in effect at that time.

For the convenience of the Conference and to facilitate consideration of this report, the Committee believes that it is desirable to summarize its activities in connection with this topic up to the present time.

Assuming that the intra-district time schedules of the several Federal reserve banks and branches were reasonably accurate and that each reserve bank was carrying a minimum amount of cloat on checks payable within its own district, it was deemed advisable to compile a tabulation showing for each Federal reserve bank and branch the number of days of deferred availability given on country items payable in each state or part of state in other districts, and the number of days actually required to collect such items according to existing time schedules. This tabulation was submitted as a part of the report of the Committee to the Conference of Governors held in March, 1926. That Conference voted to request the Standing Committee on Collections to make a study

of the present time schedules and prepare a scientific revision of them if that should be necessary.

The tabulation referred to above shows in detail the inequalities and inconsistencies in the time schedules of the various Federal reserve banks and the Committee then attempted to reconcile these by correspondence with each of the Federal reserve banks. Each of the reserve banks and branches was asked to prepare accurate figures covering the collection of checks payable in its district for the period of a week in order to enable the Committee to determine upon an accurate basis for the construction of scientific and correct interdistrict time schedules.

In several instances, it was found that states wholly within a given district were split as to availability of checks in that state into two or more divisions. In order to simplify the r outing of checks payable in these states, it was thought desirable to determine upon a fair average time to be given to reserve banks and direct sending member banks of other districts only. With the cooperation of the reserve banks concerned, what is believed to be an equitable average was arrived at and was very useful in compiling inter-district time schedules for submission to each of the reserve banks.

The Committee explained in its report to the Conference of Governors in November, 1926, the basic principle which should, in its opinion, govern the construction of scientific and accurate time schedules and at the same time reduce float to the lowest possible point consistent with expediency of operation.

Some of the major inequalities, however, existing in the time schedules of certain of the Federal reserve banks still appear to be irreconcilable since these banks hold the firm conviction that it is impracticable to adopt an accurate time schedule covering checks payable in adjoining districts for which they now give credit at least one day in advance of the time required to collect because their member banks, having enjoyed the benefits of an admittedly incorrect time schedule for so many years, would oppose a change which would result in their being obliged to assume addi tional float on checks payable in adjoining territory wherea large proportion of their volume centers. In some of these instances, checks payable not only in adjoining districts but also in districts beyond are received for credit after the lapse of two business days. Checks payable in these districts are not collectible in the time specified

but require at least three business days and in some cases, four to convert into available funds. In other instances, where states lie partly in one district and partly in another, checks payable in the entire state are accepted on the same deferred basis.

The net result, therefore, of the Committee's activities is that negotiations with the several Federal Reserve banks have enabled it to compile new schedules which are more consistent with the actual ti me required to effect the collection of checks payable in other districts. It is true that the major inequalities in the time schedules of certain of the reserve banks still exist and cannot be reconciled by this Committee because the reserve banks are of the opinion that their policy of years standing cannot be changed at this time without disastrous results.

There are attached hereto and made a part of this report, tabulations showing for each Federal reserve bank and branch, time schedules for the collection of checks payable in states outside of their respective districts and payable in other Federal resrve bank and branch cities, which schedules are acceptable to them and which the Committee understands each Federal reserve bank and branch is willing to adopt and to

make effective upon the approval of the Governors' Conference. The Committee is unanimous in its opinion, however, that these schedules cannot, in all cases, entirely accomplish the original purpose intended but inasmuch as it appears to be the best that can be done at present and as they will tend to correct some of the many inconsistencies, it is hoped that they will meet with the approval of the Conference. The Committee, therefore, recommends that the deferred time shown upon these schedules be approved and adopted by the Conference and by each of the reserve banks concerned, and that a definite date be fixed upon which they shall be made effective.

A STUDY OF THE WHOLE QUESTION OF THE COLLECTION OF CASH ITEMS

The Conference of Governors of November, 1926, voted to request the Standing Committee on Collections to continue its studies of the collection problem having in mind particularly whether a Federal reserve bank may not shorten the actual transit time by sending direct to member banks located in other districts under arrangements with Federal reserve banks of those districts, and also to st udy the whole question of the collection of cash items and to report back to the Conference what, if any, modifications or improvements might be made either by a ruling or an amendment to the law in order t

effect a better and more scientific collection system. It was understood that in taking this action, the Standing Committee on Collections might call upon representatives of any Federal reserve bank if they care to do so in order to aid or assist them in their studies for the preparation of their report. The problem presented to this Committee is one which will require careful and diligent study and investigation which must necessarily consume a great deal of time. Any change in the existing check collection machinery which this Committee might recommend, would be so far-reaching in its effect and have so many ramifications, that the Committee feels it cannot at this time suggest anything definite for the Governors' consideration.

The Committee feels that each Federal reserve bank should be called upon for suggestions as to how the collection machinery can best be modified or improved, and plans to ask each of the Governors to obtain from the officer in charge of their Check Collection Departments any ideas which they may have in this connection in order that the Committee may have the fullest possible information upon which to base its study. The Committee feels that it may be necessary and desirable to call a meeting of representatives of all Federal reserve banks

familiar with this subject, or to have the Chairman of the Conference call such a meeting so that a full and complete discussion may be had and no possible improvements be overlooked.

Respectfully submitted,

Standing Committee on Collections,

H.F. Strater, Chairman
O. M. Attebery
J. S. Walden, Jr.
C. H, Coe
T. M. Toy.

Now, attached to this report are voluminous schedules that are rather hard on the eyes, but it was the only way we could compare them without making the exhibit still more cumbersome. There is nothing much to be said about them, except I might mention that in the case of Chicago there apparently was an error in their time between Michigan and Indiana. Both States were shown on the two-day basis and they should be three.

Governor McDougal. Did you hear from Mr. Bachman?

Mr. Strater. Yes, and there are three changes.

Governor McDougal. And those were in harmony with your own understanding? It was a mistake in preparing the schedules.

INTRA - DISTRICT TIME SCHEDULE

showing the deferred time given by each Federal reserve bank and branch to Federal reserve banks, branches, and direct sending member banks of other districts, for country checks payable in the states or parts of states in their respective districts. It is believed to be acceptable to each Federal reserve bank and branch concerned and forms the basis for the inter-district time schedule submitted by the Standing Committee on Collections to the Conference of Governors May 9, 1927.

STATE	COLLECTED BY	INTRA-DIST. TIME
ALABAMA	Atlanta	3
	New Orleans	2
	Birmingham	2
ARIZONA	El Paso	3
	Los Angeles	4
ARKANSAS	St. Louis	3
	Memphis	2
	Little Rock	3
CALIFORNIA	San Francisco	2
	Los Angeles	2
COLORADO	Denver	3
CONNECTICUT	Boston	2
	New York	2
DELAWARE	Philadelphia	2
DIST. OF COL.	Richmond	2
FLORIDA	Jacksonville	3
GEORGIA	Atlanta	2
IDAHO	Spokane	3
	Salt Lake City	3
ILLINOIS	Chicago	2
	St. Louis	2
INDIANA	Chicago	2
	St. Louis	2
	Louisville	2
IOWA	Chicago	2
KANSAS	Kansas City	2
KENTUCKY	Cincinnati	2
	St. Louis	3
	Louisville	2
LOUISIANA	New Orleans	2
	Dallas	3
MAINE	Boston	2
MARYLAND	Baltimore	2
MASSACHUSETTS	Boston	2
MICHIGAN	Chicago	2
	Detroit	2
	Minneapolis	3
MINNESOTA	Minneapolis	2
MISSISSIPPI	New Orleans	2
	Memphis	2
MISSOURI	St. Louis	2
	Kansas City	2
MONTANA	Minneapolis	4
	Helena	-
NEBRASKA	Omaha	3
NEVADA	San Francisco	3
	Salt Lake City	4
NEW HAMPSHIRE	Boston	2
NEW JERSEY	New York	2
	Philadelphia	2
NEW MEXICO	Denver	4
	El Paso	3
NEW YORK	New York	2
	Buffalo	2
NORTH CAR.	Richmond	3
NORTH DAKOTA	Minneapolis	4
OHIO	Cleveland	2
	Cincinnati	2
OKLAHOMA	Oklahoma City	2
	Dallas	3
OREGON	San Francisco	4
	Portland	2
PENNA.	Philadelphia	2
	Pittsburgh	2
RHODE ISLAND	Boston	2
SOUTH CAR.	Richmond	3
SOUTH DAKOTA	Minneapolis	4
TENNESSEE	Atlanta	2
	Nashville	3
	St. Louis	2
	Memphis	2
TEXAS	Dallas	3
	El Paso	3
	Houston	3
UTAH	Salt Lake City	3
VERMONT	Boston	2
VIRGINIA	Richmond	2
WASHINGTON	Spokane	2
	Portland	2
	Seattle	2
WEST VA.	Pittsburgh	2
	Richmond	3
	Baltimore	3
WISCONSIN	Chicago	2
	Minneapolis	2
WYOMING	Omaho	4

Time Schedule Showing Deferred Availability Given by Each Federal Reserve Bank and Branch for Checks Payable in Other Federal Reserve Bank and Branch Cities

	Boston	New York	Buffalo	Philadelphia	Cleveland	Cincinnati	Pittsburgh	Richmond	Baltimore	Altanta	New Orleans	Birmingham	Jacksonville	Nashville	Chicago	Detroit	St. Louis	Louisville	Memphis	Little Rock	Minneapolis	Helena	Kansas City	Omaha	Denver	Okla. City	Dallas	El Paso	Houston	San Francis.	Seattle	Spokane	Portland	Salt Lake	Los Angeles
Boston	..	1	2	1	2	2	2	2	2	3	3	3	3	3	2	2	3	2	3	3	3	4	3	3	4	3	3	4	4	5	5	5	5	4	5
New York	1	..	..	1	2	2	1	1	1	2	3	2	2	2	2	2	2	2	3	3	3	4	3	3	4	3	3	4	3	5	5	5	5	4	5
Buffalo	2	..	..	2	1	2	1	2	1	3	3	2	3	2	2	1	2	2	2	2	2	4	2	2	3	3	3	4	3	5	5	4	5	4	5
Philadelphia	1	1	2	..	1	2	1	1	1	2	3	2	2	2	2	2	2	2	2	3	2	4	3	3	3	3	3	4	3	5	5	4	5	4	5
Cleveland	2	2	1	2	..	..	..	2	2	2	3	2	3	2	1	1	2	2	2	2	2	4	2	2	3	3	2	3	3	5	4	4	4	3	4
Cincinnati	2	2	2	2	..	..	..	2	2	2	2	2	2	1	1	1	1	1	2	2	2	4	2	2	3	2	2	3	3	5	4	4	4	3	4
Pittsburgh	2	1	1	1	..	..	..	2	1	2	3	2	3	2	2	1	2	2	2	2	2	4	2	2	3	2	3	4	3	5	5	4	5	3	5
Richmond	2	1	2	1	2	2	2	..	..	2	2	2	2	2	2	2	2	2	3	3	3	4	3	3	4	3	3	4	3	5	5	5	5	4	5
Baltimore	2	1	2	1	2	2	1	..	..	2	3	2	2	2	2	2	2	2	3	3	3	4	3	2	4	3	3	4	3	5	5	5	5	4	5
Atlanta	3	2	3	2	2	2	2	2	2	..	..	..	..	..	2	2	2	2	2	2	3	5	2	3	3	3	2	3	2	5	5	5	5	4	5
New Orleans	3	3	3	3	3	2	3	3	3	..	..	..	..	..	2	3	2	2	2	2	3	5	2	3	3	3	2	3	1	5	6	5	6	4	4
Birmingham	3	2	2	2	2	2	2	2	2	..	..	..	..	..	2	2	2	2	1	2	3	5	2	3	3	2	2	4	2	5	5	5	5	4	5
Jacksonville	3	2	3	2	3	2	3	2	2	..	..	..	..	..	3	3	2	2	3	3	3	5	3	3	4	3	3	4	3	6	6	5	6	5	5
Nashville	3	2	2	2	2	1	2	2	2	..	..	..	..	..	2	2	1	1	1	2	2	4	2	2	3	2	2	3	2	5	5	4	5	4	4
Chicago	2	2	1	2	1	1	2	2	2	2	2	2	3	2	..	..	1	1	2	2	1	3	1	1	2	2	2	3	2	4	4	3	4	3	4
Detroit	2	2	1	2	1	1	1	2	2	2	2	2	3	2	..	..	2	2	2	2	2	3	2	2	3	3	3	3	3	5	4	4	4	3	5
St. Louis	3	2	2	2	2	1	2	2	2	2	2	2	3	1	1	2	..	..	..	..	2	3	1	1	2	2	2	3	2	4	4	4	4	3	4
Louisville	2	2	2	2	2	1	2	2	2	2	2	2	2	1	1	2	..	..	..	..	2	4	2	2	3	2	2	3	2	5	5	4	5	3	4
Memphis	3	3	2	2	2	2	2	2	2	2	2	1	2	1	2	2	..	..	..	..	2	4	1	2	3	2	2	3	2	4	5	4	5	4	4
Little Rock	3	3	2	3	2	2	2	3	3	2	2	2	3	2	2	2	..	..	..	..	2	4	2	2	3	2	1	2	2	4	5	4	5	4	4
Minneapolis	3	2	2	2	2	2	2	3	2	3	3	3	3	2	1	2	2	2	2	2	..	..	2	1	2	2	2	3	3	4	3	3	3	3	4
Helena	5	4	4	4	4	4	4	5	4	5	5	5	5	4	3	3	4	4	4	4	..	..	3	3	2	3	4	4	5	4	2	2	2	2	4
Kansas City	3	3	2	3	2	2	2	3	2	3	3	2	3	2	1	2	1	2	2	2	2	3	..	..	..	..	2	2	2	4	4	3	4	3	3
Omaha	3	3	2	3	2	2	2	3	3	3	3	3	3	2	2	2	1	2	2	2	2	3	..	..	..	..	2	3	3	4	4	3	4	2	4
Denver	4	4	3	4	3	3	3	4	3	3	3	3	4	3	2	3	2	3	3	3	3	2	..	..	..	..	2	2	3	4	3	3	3	2	3
Oklahoma City	3	3	3	3	3	3	3	3	3	3	3	2	3	2	2	2	2	2	2	2	2	3	..	..	..	..	1	2	2	4	5	4	4	3	3
Dallas	4	3	3	3	3	3	3	3	3	3	2	2	3	3	2	3	2	2	2	1	3	4	2	2	2	1	..	..	..	4	5	4	5	4	4
El Paso	4	4	4	4	4	3	4	4	4	4	3	4	4	4	3	3	3	4	3	3	3	4	2	3	2	2	..	..	..	3	5	4	5	3	2
Houston	4	4	3	3	3	3	3	3	3	3	2	2	3	3	3	3	2	2	2	2	3	5	2	3	3	2	..	..	..	4	5	5	5	4	4
San Francisco	5	5	4	5	5	5	5	6	5	5	4	5	6	5	4	4	4	5	4	5	4	3	4	3	4	4	4	3	4	..	..	..	..	..	..
Seattle	5	4	4	4	5	5	5	5	4	5	5	5	6	5	4	4	4	5	5	5	3	2	4	4	4	4	5	5	6	..	..	..	..	..	..
Spokane	5	4	4	4	4	4	4	5	4	5	5	5	6	5	4	4	4	4	5	5	3	1	4	3	3	4	5	5	5	..	..	..	..	..	..
Portland	5	4	4	4	5	4	5	5	4	5	5	5	6	5	4	4	4	5	5	5	4	2	4	3	4	4	5	4	5	..	..	..	..	..	..
Salt Lake City	4	4	4	4	4	4	4	4	4	4	4	4	4	4	3	3	3	3	4	4	3	2	3	2	2	3	4	4	4	..	..	..	..	..	..
Los Angeles	5	5	4	5	5	5	5	6	5	5	4	5	6	5	4	4	4	5	4	4	4	4	4	4	4	4	4	2	3	..	..	..	..	..	..

Mr. Strater. No, it was not a mistake in preparing the schedule, but the correct schedule which came back did not have that change made. He referred to them in his letter but he did not change the schedule. It was overlooked in compiling it.

Governor McDougal. But the changes you speak of harmoniz with Mr. Bachman's ideas and your own?

Mr. Strater. Yes. That is what he stated in his letter. Theremay be other corrections necessary, but we cannot tell much about it until each bank has had opportunity to go over it again. I would recommend that that be done before this is finally adopted.

Governor Wellborn. In response to your request, we have prepared a memorandum in regard to the subject of collections, Mr. Strater.

Mr. Strater. I will be very glad to have it, Governor Wellborn. Now, in connection with these inconsistencies that we have attempted to correct, we would like to refer to the schedules which were a part of the former report of this committee, which show for each bank, first the number of days of deferred availability given on country items payable outside of their district, and then the actual number

of days required to collect.

In the case of Boston there has been absolutely no change made of any kind. The Boston Federal Reserve Bank prefers to let its schedule remain exactly as it is.

In the case of New York the principal inconsistency, of course, has been the fact that the New York Bank has Boston, Philadelphia, and a part of the Cleveland District on a two-day basis. It also has Virginia on a two-day basis. No change is made there, but all of the other inconsistencies have been corrected and pretty generally they correspond as to the actual time required to collect.

The same thing is true of Philadelphia. Cleveland is all practically reconciled. The same is true of Richmond and Atlanta, and in fact the rest of them. In the case of Dallas and San Francisco their intrastate time schedule had three or four divisions for states within their home districts, which they have all agreed to give an average time for the whole State, which simplifies the sort and the determining of available dates very much.

I do not think there is an ything else to comment on at this time but I will be glad to answer any questions which the Governors may have in mind.

Governor Seay. How much consideration did the Committee to give to the question of direct sendings by Federal reserve banks to member banks in districts other than their own?

Mr. Strater. The Committee really hasn't had an opportunity to give any real study, Governor Seay. I was away ill for a month during the last six months and it took me about a month to recover from that. Of course during that time they could not have any meeting of the committee, and it would really require a tremendous lot of thought and study. Yesterday Mr. B aker suggested that it might be wise not to attempt to do that, in connection with the Alabama bank which is attempting to avoid the Federal Reserve Bank collection channels --

Governor Seay. In that particular case, yes.

Mr. Strater. In that particular case; of course any change made in the regulations would affect the status of that case right now. Before anything definite is done it seems to me that in that case and any other similar cases should be gotten out of the way.

Governor Seay. I refer more particularly to the practicability of it. I observe that counsel seem to think that the Board has power to make these regulations and I have been

unable to see that the Board has that power.

Mr. Strater. If you are referring to copy of a letter from Mr. Wyatt, you will note that that is just a hurried opinion and he did not have opportunity to go into it thoroughly.

Governor Seay. I refer particularly to his casual remarks of yesterday in which he ststaed substantially what you have just said.

Mr. Strater. I asked for his opinion and he wrote me a preliminary one, if it might be termed that, in which he said he thought it could very readily be done and would not require an amendment to the Act, but thought it would be necessary to change Regulation J, which could be very easily done if there were no obstacles raised.

The Chairman. This report, I understand, has eliminated the inconsistencies from the schedules.

Mr. Strater. Some of them, yes.

The Chairman. Is the net effect of it to increase or reduce the float we carry?

Mr. Strater. Well, it would be pretty hard to say definitely. I think that it will do two things. It will reduce the float which the Federal reserve banks carry somewhat and

will also reduce the float which the member banks may have to carry in some instances. In other words, the more distant points are cut down in many instances.

Governor Harding. I would like to ask Mr. Strater a few questions.

Mr. Strater. Certainly.

Governor Harding. Is it intended to frame a mathematically exact time schedule with a view of eliminating float entirely?

Mr. Strater. That was one of the purposes, Governor Harding. Not eliminate it entirely but bring it down --

Governor Harding. How much would you regard as excessive floats, what percentage of items?

Mr. Strater. Well, that would depend --

Governor Harding. There is some practical consideration in this. We have taken up this proposed revision that you sent us and on May 3rd, which was not a very heavy day, a light day rather, we had an analysis made of the country items handled by the Federal Reserve Bank of Boston, showing the number and amount of country letters prepared under the present and under the proposed schedule. This analysis (indicating paper) goes through the whole thing and gives the amount and number of letters required under the present prac-

tice and those required under the new practice. Here is a general summary of it:

"Omitting New York, Philadelphia and Chicago, on which points no change is recommended, there was prepared under the schedule now used 29 letters averaging 86 items, totaling $7,378 per letter, whereas under the proposed schedule it would have been necessary to prepare 45 letters averaging 55 items, totaling $4,755. Our country letters to New York, Philadelphia and Chicago contain 70 per cent of the total number and 75 per cent of the total amount of items handled.

"The minor effect of the proposed changes may be observed by examining El Paso and Memphis. Our letter of May 3 as prepared under the present schedule contains 9 items totaling $301. The proposed schedule would require us to re-sort this letter into two groups, one containing two items totaling $136 and the other containing seven items totaling $165. Likewise, our letter to Memphis under the present schedule contained 18 items totaling $998. A re-sort of this letter would be required, making a letter containing two items amounting to $79 and another of 16 items totaling $919."

I could not understand why this schedule would require additional letters from that bank. We are very much opposed

to making any change. We do not have much float, only about two per cent, we are accustomed to it and satisfied with it.

Mr. Strater. Of course that is accomplished, Governor Harding, by putting longer time on some points to offset the time that is too short on others. While if the volume was very small that might be justifiable, I really cannot see for my part why it is necessary to have a time schedule which is perhaps nearly twice as long as it should be for some points at remote distances.

Governor Harding. Well, as a matter of fact, if you want to use special delivery stamps and send the letters out every hour or so, and watch the trains, we could make most of the collections in the actual time that we now have as a theoretical proposition.

Mr. Strater. We do that now wherever possible. We make it a point to start sending letters out at three o'clock in the afternoon to connect with trains. We feel that we owe it to our member banks to collect as quickly as possible.

Governor Seay. Suppose, for the sake of the argument, that it did result in increasing the letters from 45 to 55? As a practical matter it wouldn't amount to anything, would it?

Governor Harding. It would make the total increase very much greater. These are only certain specified cases that we have analyzed.

Mr. Strater. The direct sending member bank would be forc to make at least 70 letters or nearly that — 69. They have to to route direct to their Federal reserve bank and branch and there is no possible way of overcoming that. Of course if they put them all into your bank, which necessitates extra handling on your part, I can see, if you increase the number of divisions of your time schedule, where they would have to make a number of extra sorts, possibly two or three, but obviously they could not send you the whole State of Pennsylvania. Pittsburgh and Philadelphia, if they are routed correctly, have got to be divided up and made two letters.

However, the Committee has expressed its opinion and I think it is now up to the Governors to decide what they want to do.

Governor Harding. I think you have made a very excellent report. It is well thought out and well worked out.

Governor Calkins. I understood from Mr. Strater's remarks that he intended to suggest that this was a progress re-

port, that it should be submitted to the twelve banks, considered, discussed and adopted at a later conference. Is that correct, Mr. Strater?

Mr. Strater. Well, I imagine that that would be the best thing to do, Governor Calkins, because theremay be still a few adjustments to be made which you could not tell, until each bank has had opportunity to check the thing over carefully, just what those are.

Governor Seay. Nothing practical will be lost by delaying putting the schedule into force.

Mr. Strater. No, I do not think so. I think it would be just as practicable to adopt it at the fall conference as it would be to adopt it now.

Governor Seay. Then I suggest that the report be received and committed to the study of the Federal Reserve Banks.

The Chairman. There are two points about the report. I understood from Mr. Harrison that at the last meeting someone raised a question as to whether we might not have a more general revision of the whole collection scheme for the purpose of eliminating the difficulties along the frontiers of the districts and put it on a much more scientific basis. I

do not know whether the committee has considered that or not.

Mr. Strater. Yes, the Committee has considered it in a general way but they felt, as the report states, in order not to overlook any possible improvement, we ought to go a little bit deeper into it and get the ideas of each of the twelve banks before us, and then, possibly, ask the Chairman of the Conference to call a meeting of the operating officials of the banks and consider it with all of them present.

The Chairman. We have a time schedule averaging three or four days, or between three and four days, do we not?

Mr. Stratton. Do you mean for the whole System?

The Chairman. For the whole System.

Mr. Stratton. Intra-district?

The Chairman. No, I mean the average time that it takes to collect six or eight hundred million dollars in checks. Between three and four days for the whole country?

Mr. Strater. That may vary in the different districts.

The Chairman. But it would work out roughly about that average, would it not?

Mr. Strater. I think likely so. Very likely it would average around three or four days.

The Chairman. What was in my mind was to illustrate only

that if it were possible in practice to lengthen the whole time schedule by one day, it would force the banks to borrow 150 to 200 million dollars from us; that, in turn, would give us opportunity to buy one or two hundred millions of securities and then they would pay for their borrowings and we could get our portfolio back. I don't suppose we could make an increase of a day in the time of collecting checks without raising cain in the country banks, but the whole tendency it seems to me should be to reduce the float that we carry.

Governor Fancher. You speak of raising cain. I think you would start the party right in your own home town.

The Chairman. Yes, that is just where it would start, I imagine. Therefore it is proper for me to make the suggestion.

Governor Fancher. I think the first step would be to bring into line the three districts of New York, Boston and Phidalphia, and have a time schedule really square with the actual time.

The Chairman. Would you like to see New York on a three-day basis?

Governor Fancher. You would decrease the three banks perhaps 20 to 25 million dollars if you lengthened the time

schedule for three days --

The Chairman. If we did that would you fellows be willing to do it?

Governor Fancher. No, we are not --

Governor Seay. It needs such action on the part of Boston and Philadelphia and your bank to put the System upon an equitable and scientific basis.

Mr:Harrison. This was discussed at the last conference when you were unable to be present, Governor Strong. I think before we do [illegible] admit that we cannot collect these checks on a two day schedule that we should review the whole collection system, as recommended by the Conference last fall, and see whether there is anything to be accomplished by a general r evision which would expedite collection generally throughout the country, and which possibly might make it quite feasible for us to maintain our two-day schedule by overlooking district lines in that closely congested area of the Northeast. Whether it would be practicable to do it I do not know, but that is a matter now before the Committee. I myself would prefer not to change our schedule, or that of Boston and Philadelphia, until after the conference has the result of the studies of Mr. Strater's committee, and is

quite satisfied that it is impossible to amend the collection system in a way to make it possible for us to keep our two day points.

The Chairman. I would like to see no general revision attempted until after this Atlanta situation has been dealt with. Furthermore, when it comes to any radical change, it seems to me it would be a good thing to consult Mr. Baker as to the legal effect and legal bearing it would have upon all this litigation.

Mr. Harrison. I think the time will come when we have either got to actually collect that large volume of checks in two days or else amend our schedule. Before amending our schedule I hope Mr. Strater's Committee will exhaust every possible means of study to find out whether we can actually collect the items in two days.

The Chairman. I would rather put the district on a three-day basis if we could get the benefit of it in our portfolio. But I am afraid, as you say, that it would raise cain.

Governor Seay. The Committee paid its respects to that time-honored principle of precedence.

The Chairman. New York has always been on a two-day basis.

Governor Seay. For which there is no logical defense.

Mr. Harrison. I do not think it would give us an opportunity to increase the portfolio, because I think it is very probable that the New York Clearing House would reestablish a country collection department and then actually collect those checks in two days, as they used to do before the Federal Reserve System took over collections. We figured it out, after considerable study, that if we could send direct to fifteen cities, or perhaps it was eighteen, in New England, we could collect actually in two days 85 per cent of the volume of checks that we are sending to NewEngland.

Mr. Strater. Provided those banks that you have in mind would be willing to accept the checks from you and remit for them at par.

Mr. Harrison. Of course.

Mr. Strater. You would have to make that arrangement say with Philadelphia, and each one of Governor Harding's member banks and a lot of non-member banks would get three letters now instead of one.

Mr. Harrison. That is not nearly as many letters as they used to get.

Governor Seay. And get their checks one day sooner.

Mr. Strater. Yes.

The Chairman. After all what you are discussing is getting right back to the fundamental question of whether the district lines are right or whether the operation of the collection system has not disclosed that the natural district lines have not been met by this particular division.

Governor Norris. Mr. Harrison called our attention, in the discussion last fall, to the fact that these district lines were made with regard to other factors than the collection, that the collection system was n ot in view when the district lines were made.

Governor Seay. That would probably be true no matter what district lines were used, unless you established a corkscrew district with an irregular coast line.

The Chairman. We might have a jerrymander.

Governor S eay. Yes.

Mr. Strater. If that weredone it would probably eliminate ten or twelve collecting centers completely. Someone in the New York Bank has prepared a map showing the logical railroad centers to operate this, with a collecting center in a particular place. It might eliminate a lot of branches and in fact some Federal Reserve Banks are collecting agents entirely, if you follow that out. Undoubtedly it would sim-

plify the collection of checks.

Governor Seay. It would also disturb the member banks which have a practice of keeping accounts with their correspondents. They have built up their connection there.

Mr. Strater. Yes.

Governor Seay. And it might have the effect of breaking a great many of those connections.

Mr. Strater. It is an exceedingly radical thing even to consider. I suppose it would require an amendment of the Act to do it.

The Chairman. We would not want to do it without the advice of counsel.

Mr. Strater, your suggestion is that this report be filed as a report of progress and that no action looking to a change of time schedules be taken until the report is submitted at the fall meeting?

Mr. Strater. Yes, Mr. Chairman.

Governor Seay. I suggest in addition to that that each Federal Reserve Bank be requested to submit its comments in writing upon the report to the standing committee. I understand Boston has made some study of it and Atlanta I believe has handed in a report. Do you wish that, Mr. Strater?

Mr. Strater. Yes, it would be very welcome.

The Chairman. Suppose the resolution includes a request that Mr. Strater address a communication to each of the Reserve banks describing in what shape he would like to have a report. Does that meet your views, Mr. Strater?

Mr. Strater. Yes, Mr. Chairman.

The Chairman. Is there any further discussion? You offered the r esolution, Governor Seay?

Governor Seay. Yes, Mr. Chairman.

Governor McDougal. I will second it.

(The motion having beem duly seconded, was unanimously carried.)

The Chairman. We do not want to detain Mr. Kenzel longer than necessary. Will it be agreeable to take up Topic 4-H, report of the Pension Committee?

IV. OPERATION AND ADMINISTRATION.

H. Pension Bill.

1. Report of Pension Committee.

2. Discussion of plans for again taking up Pension Bill.

Mr. Kenzel. The report of the Pension Committee to the Governors' Conferenoe is as follows:

REPORT OF THE PENSION COMMITTEE TO THE GOVERNORS' CONFERENCE, MAY 9, 1927.

Your Committee deems it appropriate at this time to review briefly the history of the Pension Committee and its work.

The Committee was first appointed at the March, 1909, Conference of Governors. It was authorized to employ actuaries and other experts and did subsequently employ the following:

Mr. Henry Moir as consulting actuary,

Mr. George B. Buck as working actuary,

Mr. Monell Sayre aspension advisor, and

Mr. James F. Curtis as counsel.

After a careful study of a large number of other pension plans and of the whole pension problem as applied to the Federal Reserve System, a plan was evolved which was outlined and recommended to the Conference of Governors and the Federal Reserve Board in a report, dated February 24, 1921. This report was considered by the Federal Reserve Board and the Governors' Conference in February and April of 1921, with the result that it was decided to endeavor to secure Federal charter for a corporation to operate the fund and Congressional

authority to the banks to contribute to such fund.

With a view to securing such legislation a committee of the Conference of April 12, 1921, and the Federal Reserve Board waited on Senator Smoot with the result that he suggested certain modifications of the plan as necessary in his judgment to assure the passage of the enabling act, his principal point being that the banks should assume only one-half instead of all of the accrued liability. This condition was met and a bill was accordingly prepared by Mr. Curtis in May of 1921. It was transmitted by the Board to Senator Smoot on June 10, 1921, with the request that it be enacted into law as early as practicable and with a statement that its general details were approved by the Board.

During the summer and autumn of 1921 the plan was accepted and approved by the boards of directors of each of the twelve Federal reserve banks. The bill to incorporate the pension fund was not introduced, however, until March, 1926. On March 22, 1926, it was introduced by Senator George P. McLean, Chairman of the Senate Committee on Banking and Currency and was promptly referred to that committee. That Committee held two hearings on the bill, on April 13 and April 27, 1926, respectively, both of which were attended by representatives

of your Committee. The Senate Committee was favorable to a pension plan for Federal Reserve Banks; its discussion had to do mainly with the fixing of a limit on the amount of any pension that could be paid from the banks' contributions. In order to meet any criticism that might develop on this point, the Senate Committee amended the bill by inserting a clause specifically limiting the amount of pension that could be paid out of the funds contributed by the employer to 30 per cent of the maximum salary paid. Our actuaries and your Committee believe that such limitation would not interfere with the contemplated operation of the proposed plan. The Senate Committee reported the bill favorably but it did not come to a vote in the Senate at the Spring Session.

Simultaneously with the introduction of the bill in the Senate, steps had been taken to secure its introduction in the House, through Representative Louis T. McFadden. Mr. McFadden, being especially desirous of securing the passage of his banking bill, did not consider it wise to introduce the pension bill until the banking bill was disposed of, so no action on it was had in his Committee or the House during the 1926 Spring Session.

When Congress met in December of 1926 the bill was promp

taken up in the Senate and was passed on December 17, 1926, which automatically referred it to the House.

In the House the bill was referred to the Committee on Banking and Currency of which Mr. McFadden is Chairman. Mr. McFadden was still so much engaged with other legislation, particularly the banking bill, that it was not until February that consideration could be obtained for the pension bill. The House Committee held two hearings on February 11 and 16, 1927, respectively, both of which were attended by representatives of your Committee. Unfortunately, the billencountered some opposition, largely political, in the House Committee. Notwithstanding, the bill was reported out by the House Committee on February 26, 1927, with recommendation for passage, but there was also an adverse minority report and for this reason it was not possible to obtain a rule from the Rules Committee that would give it opportunity to be voted on in the House prior to adjournment on March 4. It is the view of your Committee that if the bill could have been reported out by the House Committee at an earlier date, there would have been little, if any, difficulty in securing its passage, but in the closing days of the session there were so many important matters to be dealt with that the legislative leaderswere unwilling to have

brought up measures to which there was considerable political opposition. Mr. McFadden and other members of the House, including some of the signers of the minority report, have advised that the bill can be passed promptly at the next session of Congress.

Your Committee held a meeting on April 20, 1927, for the purpose of reconsidering the bill in the light of experience before the Senate and House Committees, and the steps which should be taken for its reintroduction in the next Congress. While your Committee was informed andbelieves that much of the opposition that developed was not sincere and was of a petty character and based largely on misunderstanding of the provisions of the bill, nevertheless it was deemed desirable to meet so far as possible the criticisms which have been raised by changes in the language of the bill wherever that can be done without seriously affecting the purpose and operation of a sound and adequate pension plan.

The Committee decided, therefore, to redraft the bill and in the redraft:

(a) To change the name of the fund from the Federal Reserve Pension Fund to Federal Reserve Retirement Fund and to eliminate, so far as possible, the word "pension" from the

body of the bill. This was suggested by Mr. McFadden and several other members of his Committee.

(b) To change the language of the amendment made by the Senate Committee to Section 4 of the bill, which established the limit of the amount of any pension that could be paid from employers' contributions at 30 per cent of a maximum salary, substituting the expression of the same limitation by using the language of the Rogers Bill, i.e., a percentage "of the average salary of the last ten years of service."

T he words "maximum salary" were the occasion for a good deal of confusion and misunderstanding and one of the principal points raised by an important member of the House Committee who joined in the minority report but has since indicated that with certain amendments the bill should be passed at the next session.

It seemed that a number of the members of the House Committee had difficulty in satisfying themselves that this was a limitation upon the amount of pension that could be paid from employers' contributions and not a method of determining the amount of pension.

(c) To include in the bill a provision requiring return of their contributions to employees leaving the service. This

was not mentioned in the original bill but was a provision of the plan. It was one of the points raised in the minority report and there can be no harm in including it in the bill.

It was decided by your Committee to retain the provision that would permit member banks to participate in the pension plan with the approval of the Federal Reserve Board. While it is realized by your Committee that this provision is by no means essential to the success of a retirement system for Federal reserve bank employes, it is deemed by your Committee and its advisors as a most desirable feature for member banks and in the public interest. It is also desirable from the point of view of the administration of the fund in that if used by any considerable number of member banks the administration cost ratio would be materially reduced.

It developed in the discussions of your Committee that quite a number of member banks are much interested in this feature of the bill and that some, at least, are deferring taking some independent action towards establishing pension provisions for their employees, hoping to participate in our system.

Consideration was given also to that portion of the minor report relating to Section 6 of the bill, which is the section

that reserves to Congress the right to alter, amend or repeal the act and which further provides that the contractual rights of any individual shall not be affected thereby. Counsel for your Committee advises that from a legal standpoint the section could be omitted without hazard, for the reasons that it is, of course, obvious that Congress may alter, amend or repeal any of its acts and that, in his opinion, the Constitution of the United States guarantees to individuals the necessary protection of their contract rights; nevertheless, he advised that, if possible, the clause should be retained, as in modern times it has become customary to include such a clause in all legislation of this sort. It was, therefore, decided to retain this section for the present at least but with the thought that it could be omitted if it became the subject of serious controversy.

It was also decided to reinstate in more specific language that provision of the bill which was eliminated by amendment on the floor of the Senate, which provided for inclusion within the benefits of the plan of the employees of the fund itself. The provision in the original bill was to include the officers and employees of the Pension Fund, but when the bill was debated on the f loor of the Senate, one Senator ob-

jected to this provision on the ground that it would provide pensions for the incorporators and trustees of the fund. While this was, of course, a mistaken view, Senator McLean promptly surrendered this minor part to obtain prompt passage of the measure. It is inconsistent, however, in establishing a retirement fund to exclude from participation in it the fund's own salaried officers and employees, as originally provided.

In the hearings before the Committees both in the Senate and the House, it was apparent that some members expected the major provisions of the plan to be stated in the bill and while your Committee had carefully considered this question prior to deciding that the terms of the plan sh ould not be incorporated in the statute, they have again considered it and could only arrive at the same conclusion. It was again emphasized by your Committee's advisors that as pension provisions must look a long way into the future and as pensions cannot become effective until many years after provision for them has been undertaken, it is most unwise and unsound to include terms in the charter. This was formerly the practice, with the result that many of the older pension systems abroad became entirely inadequate with changed economic conditions.

For instance, a pension of 10 pounds a year that was ample in the days of Queen Anne would be ridiculous in modern times. The function of modern pensions is to permit orderly retirement of super-annnuated employees. This cannot be effected unless the pension is moderately related to the salary enjoyed when the employee comes to pension age. The scheme of working on averages in the plan evolved by your Committee embraces flexibility sufficient to reasonably overcome the effects of changed economic conditions, salary levels, etc., without disadvantage to or discrimination against either the employee or the fund. It provides for the automatic correction with soundness of changes that may take place during the term of employment of the individual for whom retirement provision is made. Therefore, to incorporate terms in the charter provisions of a retirement fund is not only unscientific but als o could work grave hardships in individual cases and in the mass unless prompt charter revision were possible and it is deemed by your Committee that it would be both unsafe and undesirable to depend upon prompt action by Congress to amend charter provisions as to the terms of pensions and hence they believe that the terms should not be in cluded in the bill.

Another point made in the minority report deals with the

maximum amount of salary that may be considered as a basis for pension and suggests $10,000 instead of $18,000 as that maximum, the argument being that in the bill for the State Department employees $9,000 was the maximum of salary taken as a basis for the calculation of pension benefits. The fact is that $9,000 is the maximum salary that can be paid under the present law to any State Department employee eligible for pension, excepting only an ambassador promoted from the service -- there is one such case at present. Your Committee believes that there is no valid argument on that account for the reduction in the maximum salary provided in your bill as a basis for pension calculations. On the contrary, your Committee believes that the fact that Congress adopted the maximum salary paid to S tate Department employees as the basis for retirement allowance clearly indicates the appreciation by Congress of the necessity for a reasonable relation between terminal salaries and the retirement annuity. While a less than $18,000 basis would provide adequate pension provision for the lower salaried officers and employees of Federal Reserve Banks, the provision would be entirely inadequate in respect of all higher salaried officers, and your Committee believes that it would be a great mistake for any plan to

omit provision for the orderly retirement of the higher salaried personnel, and it regards the figure of $18,000 provided in the bill as the minimum that can be considered as permitting reasonable retirement of such personnel at age 65.

Your Committee also considered the problem of accrued liabilities, which has become increasingly difficult with the lapse of time since 1920, and believes that there should be a recalculation made by the actuaries to ascertain exactly the condition of accrued liabilities in order that possible changes or modifications in the plan might be adopted that would permit the older men with years of service to participate when the fund becomes operative.

The accrued liabilities were figured exactly, as of October 1, 1920, at $1,973,519. Without securing complete date the actuaries made an estimate of the accrued liabilities as of October 1, 1924, when by such calculation they were found to be approximately $6,000,000. Your Committee recommends that an exact calculation be made from new data on present employees as of June 30, 1927.

Your Committee believes the passage of the Pension Bill at the next session may be reasonably expected and if so,

data collected as of June 30, 1927, can be used in setting up the pensil plan more promptly than would be the case if data had to be assembled and the calculations made after the passage of the bill. It is believed that the actual operation of the plan might be begun six months earlier with data as of June 30, 1927, than would be possible if the calculations were deferred until after the passage of the bill.

The original appropriation made in 1920 for the expenses of the Committee amounted to $27,500, of which $20,000 was apportioned for the actuaries and other experts, and $7,500 for counsel fees. The attached statement shows the amounts expended to date against these appropriations. From it will be noted that against the $20,000 appropriation there has been expended $19,105.51. There is payable against this fund $500 to Mr. Henry Moir, being the balance of his stipulated fee of $3,000. There is an unexpended balance of $2,100 in the appropriation for counsel fees, which is insufficient by more than $1,000 to discharge the Committee's debt to counsel for services and expenses incurred.

The unexpectedly long time which has elapsed since the Committee first began its work and the vast amount of detail work which it has been necessary for the actuaries and coun-

sel to do in connection with the restating of the plan and the preparation and presentation of data at the hearing before the Congressional Committees, added materially to the expenses of the Committee.

Your Committee recommends, therefore, that there be appropriated an additional $10,000 for its expenses, which, with the balance remaining from the original appropriation, is believed to be amply sufficient to permit the new actuarial work which is recommended, and to pay such other necessary expenses as will be incurred within one year. Assuming that the bill will pass the next Congress, it is believed that expenses incurred this year will substantially reduce the expenditures that would otherwise have to be made at the time of organization.

Respectfully submitted,

E. R. Fancher,
James B. McDougal,
E. R. Kenzel, Chairman.

April 29, 1927.

STATEMENT SHOWING EXPENSES OF PENSION COMMITTEE FROM 1919 to DATE.

	Disbursements	Appropriation
To Mr. George B. Buck, for actuarial work and expenses,	$10,919.53	
To Mr. Henry Moir, consulting actuary	2,500.00	
To Mr. Monell Sayre, pension advisor,	5,000.00	
Miscellaneous expenses, traveling, etc.	715.98	
Total	$19,135.51	$20,000.00
To Mr. James F. Curtis, counsel, for legal fees, expenses, printing, etc.	$ 5,403.71	7,500.00
GRAND TOTAL	$24,539.22	$27,500.00

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EXTRACT FROM CONGRESSIONAL RECORD OF DECEMBER 17, 1926, SENATE DEBATE ON FEDERAL RESERVE PENSION BILL.

FEDERAL RESERVE PENSION FUND

The bill (S.3657) to incorporate the Federal reserve pension fund, to define its functions, and for other purposes, was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KING. I shall not object to the consideration of

the bill, but I wish we could have a little more time than the five minute rule permits. The Senator from Connecticut (Mr. McLean) has been very considerate, and I shall not object to its consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment of the Committee on Banking and Currency was, on page 5, line 24, after the word "employer," to insert the following additional proviso:

> And provided further, That no pension shall be paid out of the amounts contributed or to be contributed by the Federal reserve banks, the Federal Reserve Board, and the Federal reserve agents at a rate in excess of 30 per cent of the maximum annual salary received by such officer or.

The amendment was agreed to.

Mr. KING. Mr. President, I invite the attention of the Senator from Connecticut to the provisions on page 2 and the provisions on page 3, which extend the operations of the bill to State banks or trust companies or State institutions if they shall ever become members of the Federal reserve system. I would like to know the theory upon which

the Federal Government, if my interpretation of the bill is right, intrudes itself into the State and says to the State institutions, "We have provided a Federal board that shall determine the pensionable status of employees in your various banks and trust companies."

Mr. McLEAN. Yes; they are private institutions the same as national banks. This is merely a voluntary proposition. They can come in if they so desire or remain out.

Mr. KING. It is voluntary in so far as joining the Federal reserve system is concerned, but it is involuntary so far as forcing State banks and State institutions, which may be members of the Federal reserve system, under the provisions and operation of this bill.

Mr. McLEAN. If they become members of the Federal Reserve system, then they give it jurisdiction.

Mr. MOSES. Mr. President, may I ask the Senator from Connecticut if this is anything more than an enabling act for banks which wish to establish a pension system?

Mr. McLEAN. That is all.

Mr. MOSES. I am glad to see the junior Senator from Utah so vigorous in defending State rights, because that question is coming up here presently in a much higher form.

Mf. KING. I hope I shall always be a defender of local self-government against the new federalism which tries to destroy the same. But I ask the Senator from Connecticut again if he thinks it is wise or proper to establish a Federal corporation which will project itself into the States and say to State institutions, which may have voluntarily come into the Federal reserve system, "We are going to impose upon you a pension system with respect to your employes, willy-nilly."

Mr. WALSH of Montana. Mr. President, will the Senator kindly call our attention to those provisions of the bill which in his judgment so operate? As I read the bill, it provides pensions or other funds of support for the officers and employes of Federal reserve banks, of the Federal Reserve Board, and Federal reserve agents.

Mr. KING. I was asking the Senator from Connecticut because I have not had time to read the bill, Paragraph (c), on page 2, and paragraph (d), on page 3, indicated to me or at least, as I hastily examined them, led me to the view that the position which I just suggested was right. I will read them:

(c) To provide pensions or other forms of

support for officers and employees (and for persons who may be or who may have been dependent upon such officers or employees) of any bank or trust company that is or shall be a member bank of any Federal reserve bank, and who shall be deemed entitled to the assistance and aid of the corporation, on such terms and conditions, however, as the corporation may from time to time approve and adopt.

In paragraph (d) it is provided:

(d) In general, to do and perform all things necessary or appropriate to a corporation created for the purpose of providing pensions or other forms of support for officers and employees of Federal reserve banks, Federal Reserve Board, Federal reserve agents, and member banks of Federal reserve banks and for persons who have been or may be dependent upon such officers or employees——

And so forth.

Further on it provides that the ——

corporation may establish andmaintain appropriate activities, agencies, and institutions and may aid or make use of such activities, agencies, or institutions

as may be now or hereafter estab lished for like or similar purposes —

And so forth.

It is very clear to me that this is for the purpose of reaching State institutions which may be members of the Federal reserve system. I think the Senator ought to agree to strike out those provisions.

Mr. McLEAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Connecticut?

Mr. KING. I yield.

Mr. McLEAN. The important provision of the bill, I will say to the Senator, is to authorize the Federal Reserve Board and the Federal reserve banks to establish pension systems. I think something like 100 systems or more were examined by the experts who were interested in the matter. They recommended this provision, which permits a member bank to come into the corporation, if it is formed, for the purposes of economy, thinking possibly that it might be an invitation to the State banks to come into the system.

The Senator will realize that the Federal reserve banks now are laboring under a great disadvantage because of the

absence of any pension system. Their good men are leaving, and leaving constantly, because of increased salaries offered them by the outside banks. It was felt that this provision would make the Federal reserve system more popular and tend to invite State banks into the system, because a good many of the State banks are not large enough to establish a pension system; that is, it was thought wise that if it could all be managed under one head it would be very much better and very much more satisfactory and inexpensive.

If the provision referred to is going to defeat the bill and carry it over today, I would rather have those provisions taken out; but the bill has not passed the House, and I hope the Senator will let it go through as it is, because I think the provision is a proper one.

Mr. FLETCHER. Mr. President, may I suggest to the Senator that it is purely voluntary?

Mr. McLEAN. That is just what I have suggested.

Mr. FLETCHER. They are simply authorized to consider it and go into the system if they want to do so.

Mr. McLEAN. That is all. There is no compulsion. It does not interfere in any way with the rights of the State banks or State supervision over State banks, but if such a

bank comes into the system and desires to join this corporation and come under the provisions of this pension system, it can do so.

Mr. FLETCHER. That is what I understand to be the point which has been made by the Senator from Utah; that if these banks came into the system they would be obliged to become a part of this corporation in a way, and to accept the provisions that might be laid down with reference to the corporation under its rule s and regulations.

Mr. McLEAN. That is merely permissive.

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. KING. It has been used by others, far better, perhaps.

The PRESIDING OFFICER. The Senator from Florida (Mr. Fletcher) has the floor.

Mr. FLETCHER. Mr. President, I wish to call attention of the Senator from Utah to the provision on page 6, which reads—

> and such banks or trust companies as may be now or hereafter be member banks of a Federal r eserve bank are hereby authorized to contribute to the cost of the or-

ganization and operation of the corporation and the establishment and maintenance of the said funds.

Such banks are simply authorized to do it; they are not obliged to do it. So I think the point made by the Senator from Utah is answered by that provision of the bill. The particular banks are not compelled to become a part of this system.

Mr. WALSH of Montana. Mr. President, I had noticed the provision of the bill referred to by the Senator from Florida to the effect that the member banks are authorized to contribute to the organization of the corporation. It might be inferred from that provision that any bank will be at liberty to join this corporation or not to join the corporation; but subdivision (c), in section 1, to which our attention has been called by the Senator from Utah, seems to be inconsistent with that. It is perfectly plain from the language that the board is authorized—

> To provide pensions or other forms of support for officers and employees x x x of any bank or trust company that is or shall be a member bank of any Federal r eserve bank, and who shall be deemed entitled to the assistance and aid of the corporation

on such terms and conditions, however, as the corporation may from time to time approve and adopt.

Mr. McLEAN. That is, provided always that the State bank desires to come in.

Mr. WALSH of Montana. Yes; but the bill does not say so. The board is authorized to provide pensions for the employees of those banks. It is true that that seems rather inconsistent with the provisions which are found in section 4 on page 6; it is equivocal, to say the least. If this be entirely voluntary, I should have no objection to it at all, but I should certainly want to take the advice of the State banks which are members of the Federal reserve system of my State before I could give the measure my approval, provided it was compulsory; and it certainly looks that way from the provisions of subdivision c.

The initial paragraph, paragraph (a), states that the purpose of the corporation is—

> (a) To provide pensions or other forms of support for officers and employees of the Federal reserve banks, Federal Reserve Board, and Federal reserve agents, who by reason of long and meritorious service—

And so forth.

It will be observed that in the purpose of the corporation as indicated in paragraph (a) the employees of the member banks do not come in at all; and yet when we come down to subdivision (c) it is found that the board, in addition to providing a system of retirement pay for employees in the Federal Reserve banks and the Federal Reserve Board and the Federal reserve agents, it also empowered to provide pensions for the employees of the other banks. Those two sections are inconsistent with each other.

Mr. McLEAN. I would not say they were inconsistent, though the first section referred to may be a little incomplete.

Mr. GLASS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Montana yield; and if so, to whom?

Mr. WALSH of Montana. I yield to the Senator from Virginia.

Mr. GLASS. It occurs to me that that is a pertinent inquiry. What "other banks" are referred to? Such "other banks" as may voluntarily come into the system.

Mr. WALSH of Montana. To what does the Senator now refer?

Mr. GLASS. I think the provision of the bill on page 6, where it states that these banks are authorized to do this, means they are authorized to do it for just such banks as voluntarily come into the system.

Mr. WALSH of Montana. Yes; but observe that under section subdivision (c) the power is given to provide the system, and under section 4 a bank is authorized to take money out of its assets and make contribution to the system provided by the corporation as set forth in subdivision (c) of section 1.

Mr. GLASS. I read subdivision (c) in conjunction with the other provisions of the bill.

Mr. WALSH of Montana. So do I.

Mr. GLASS. And not separated from the other provisions.

Mr. WALSH of Montana. It is in a measure inconsistent. The proposed corporation is empowered to provide the system, but otherwise the bank would say, "We have the power to use our money in this way." Section 4, which is found on page 6, authorizes them to use the money for that purpose.

The PRESIDING OFFICER. The time of the Senator from Montana has expired. The Senator from Virginia has the floor.

Mr. GLASS. I think the provision of the bill on page 6, where it states that these banks are authorized to do this, means they are authorized to do it for just such banks as voluntarily come into the system.

Mr. WALSH of Montana. Yes; but observe that under section subdivision (c) the power is given to provide the system, and under section 4 a bank is authorized to take money out of its assets and make contribution to the system provided by the corporation as set forth in subdivision (c) of section 1.

Mr. GLASS. I read subdivision (c) in conjunction with the other provisions of the bill.

Mr. WALSH of Montana. So do I.

Mr. GLASS. And not separated from the other provisions.

Mr. WALSH of Montana. It is in a measure inconsistent. The proposed corporation is empowered to provide the system, but otherwise the bank would say, "We have no power to use our money in this way." Section 4, which is found on page 6, authorizes them to use the money for that purpose.

The PRESIDING OFFICER. The time of the Senator from Montana has expired. The Senator from Virginia has the floor.

Mr. GLASS. The provision would not compel the bank to

use their money for that purpose; so that if they do not wish to be the beneficiaries of the system they need not come in.

Mr. KING. The language does not so provide.

Mr. GLASS. The whole purpose of the provision was to create a purely voluntary arrangement.

Mr. REED of Missouri. Mr. President, I should like to have this bill go over until we may have an opportunity to study it. I have never seen it and never heard of it. It is called up here in the morning hour under the five-minute rule, when there is no time to discuss it. I am very certain that it needs some study. I therefore ask the Senator from Connecticut to let the bill go over until tomorrow.

Mr. McLEAN. Mr. President, I will say to the Senator from Missouri that I brought the bill up at the last session and I have tried to do my duty by it at this session. This is the third time I have endeavored to have it considered; but the Senator from Missouri has not happened to be present on the previous occasions. I am very desirous that action shall be had upon it.

As the Senator knows, the Federal reserve system is laboring under a great disadvantage. The board is urging me to press the bill. It is approved by the Secretary of

the Treasury, and I think is very carefully drawn and ought to be disposed of. The Senator understands the condition we are in.

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. REED of Missouri. I will yield, but I do not care to have all my time consumed.

Mr. CURTIS. Mr. President, I was going to suggest that if the State small banks were eliminated, perhaps, there would be no objection to the measure.

Mr. REED of Missouri. Mr. President, I have another objection to the bill, and I cannnt present it and get light on it in five minutes' time, I presume. Here is a provision empowering the proposed corporation to provide for pensions or means of support not only for the employes but for persons who may or have been dependent upon such officers or employees. This applies to the Federal Reserve Board and the Federal reserve agents and the Federal reserve branch banks. The Government has an interest in the Federal reserve branch banks, the district banks. It has an interest in the profits which may be made, and I can easily see how

this could be employed so that the moneys that are set aside for the benefit of this corporation by the Federal reserve banks -- I do not mean the mere member banks, but I mean the district banks-- would all come out of that part of the fund in which the Government of the United States is entitled to participate. I wish to know something about this bill.

Mr. McLEAN. Mr. President, the amendment which the Committee offers limits the pensions to 30 per cent of the salary. There are about 10,000 employees, and it is estimated it will cost not to exceed $600,000 a year under the limitations provided. That may give the Senator information which he desires, Such an expenditure would not seriously effect the income of these institutions, and it is believed that it would be an excellent investment, a paying investment.

Mr. REED of Missouri. That may be, but I want time to consider it.

Mr. McLEAN. It will invite willing and efficient service, something greatly to be desired.

Mr. BRUCE. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Missouri yield for that purpose?

Mr. REED of Missouri. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

Ashurst	Fletcher	McLean	Simmons
Bingham	Frazier	McMaster	Smith
Blease	George	McNary	Smoot
Borah	Gerry	Mayfield	Steck
Bratton	Gillett	Metcalf	Stephens
Broussard	Glass	Moses	Stewart
Bruce	Goff	Neely	Swanson
Cameron	Gould	Norris	Trammell
Capper	Hale	Oddie	Ty son
Copeland	Harris	Overman	Wadsworth
Couzens	Harrison	Pine	Walsh, Mass.
Curtis	Heflin	Pittman	Walsh, Mont.
Dale	Howell	Ransdell	Warren
Deneen	Johnson	Reed, Mo.	Watson
Dill	Jones, Wash.	Reed, Pa.	Weller
Edge	Kendrick	Robinson, Ind.	Wheeler
Edwards	Keyes	Sackett	Willis
Ernst	King	Schall	
Ferris	Lenroot	Sheppard	
Fess	McKellar	Shipstead.	

The PRESIDING OFFICER. Seventy-seven Senators having answered to their names, a quorum is present. The question is on the passage of the bill.

Mr. WALSH of Montana. Mr. President, in order to meet some objections which have been made, I offer an amendment, to add an additional section, as follows:

> No member bank shall be required to contribute to any fund, the creation of which is herein provided for, unless it shall elect to participate in the operation and maintenance of the said Federal reserve pension fund.

Mr. McLEAN. I shall be glad to accept that amendment.

The amendment was agreed to.

Mr. WALSH of Montana. Another matter, Mr. President: I desire to make an inquiry of the Senator having the bill in charge. Certain persons designated in section 1 of the bill are declared to be, with their successors, a body corporate by the name of the Federal reserve pension fund. I am troubled to know who the successors of these gentlemen will be and how they shall be selected. I see in the bill no provision whatever looking to the filling of vacancies that may occur.

Mr. FLETCHER. Mr. President, if the Senator will turn to page 4, line 16, he will see that it provides how the trustees are to be elected.

Mr. WALSH of Montana. I find on that page the following:

> The constitution shall prescribe the qualifications of members who may or may not be restricted to the same persons who are trustees of the corporation, the number of members who shall constitute a quorum for the transaction of business at meetings of the corporation, the number of trustees by whom the business and affairs of the corporation shall be managed, and the qualifications, powers, tenure of office, and manner of selection and of fixing the compensation of the trustees, managers, officers, and employees of the corporation.

Mr. FLETCHER. Beginning in line 16.

Mr. WALSH OF Montana (reading)—

> Provided, however, That the trustees of the corporation shall consist of not more than 26 persons, of whom 12 shall be elected, one each by the respective boards of directors of the several Federal reserve banks, and of whom 12 shall be elected, one

each by the respective employees of the several Federal reserve banks, and of whom one shall be elected by the Federal Reserve Board, and of whom one shall be elected by the employees of the Federal Reserve Board.

Mr. BRUCE. It does not say anything about the duration of their services.

Mr. FLETCHER. It says that the constitution shall prescribe the manner of selecting and of fixing the compensation of the trustees, managers, officers, and employees of the corporation.

Mr. WALSH of Montana. I suppose probably the words "tenure of office" might cover that. I ask the Senator from Maryland (Mr. Bruce) if he agrees with that.

Mr. BRUCE. Yes.

Mr. KING. What is the tenture of office?

Mr. WALSH of Montana. Line 11, page 4:

The constitution shall prescribe x x x the number of trustees by whom the business and affairs of the corporation shall be managed, and the qualifications, powers, tenture of office, and manner of selection and of fixing the compensation of the trustees, managers, officers, and employees of the

corporation.

I think that is taken care of, then.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk in order that it may be stated for the information of the Senate?

Mr. WALSH of Montana. Certainly.

The PRESIDING OFFICER. The amendment will be stated.

The Legislative Clerk. It is proposed to add as a new paragraph:

> No member bank shall be required to contribute to any fund the creation of which is herein provided for unless it shall elect to participate in the operation and maintenance of the said Federal reserve pension fund.

The amendment was agreed to.

Mr. KING: Mr. President, on page 3, beginning with the word "except," in line4, I move to strike out lines 14 to 19, both inclusive, in the following words:

> Except that the corporation may provide pensions or other forms of support for its officers and employees and their dependents, under the same terms and conditions as are provided for officers

and employees of Federal reserve banks and their dependents.

This bill creates a corporation, and names, as Senators will perceive, in the first section, Mr. Crissinger, who is the chairman of the Federal Reserve Board; Mr; Harding, the former chairman of the Federal Reserve Board, and various other persons who are, I presume, connected with some of the Federal reserve banks throughout the United States. It constitutes them a corporation. Not satisfied, apparently, with providing for pensions for employees of the banks now in existence or those that hereafter shall be organized under the Federal reserve system, we now go further, and provide that the members of this corporation shall be taken care of, and their families and their dependents.

If we are so solicitous for the officials of this corporation, which is created for some quasi-public duty, there is no reason why we should not take care of the members of the Shipping Board and their dependents and their families, and every other Government organization or corporation that may now exist or may hereafter be created for the purpose of aiding in carrying out some alleged or supposed purpose of the Government, or perhaps, for some legitimate purpose of

the Federal Government. While we are taking care of the employees of the banks, I see no reason why Mr. Crissinger and Mr. W. P. G. Harding and others should be taken care of. Most of these men are within or outside of banking circles, and they are all receiving very large salaries.

Mr. McLEAN. Mr. President, the members of the Federal Reserve Board and the governors of the banks are excluded from the bill. None of them, I think, come under the provisions of this bill, and it is limited to salaries of $18,000 a year; so it would apply only to the subordinates.

Mr. KING. I am not sure about that. The language is—

> except that the corporation may provide pensions or other forms of support for its officers and employees.

That would include Mr. Crissinger, certainly. That would include Mr. W. P. G. Harding, certainly.

Mr. McLEAN. If he is a member of the Federal Reserve Board, he is excluded. Under the terms of the bill the members of the board do not come under it.

Mr. KING. I am not sure about that. Then, it is inconsistent, because this has no limitation—

> except that the corporation may provide pensions

or other forms of support for its officers—

It does not say "unless they shall be members of the Federal Reserve Board—"

and employees and their dependents, under the same terms and conditions as are provided for officers and employees of Federal reserve banks and their dependents.

It seems to me that too much solicitude has been exhibited for this board; and if we take care of them, and give them and their families and their dependents all of the benefits that are extended to employes of the Federal reserve banks who are to be pensioned, obviously other boards Federal in character or supposed to be, discharging some Federal or governmental function, will demand that there shall be no discrimination, and that we give them a pension system.

I move to strike out those lines.

The PRESIDING OFFICER. The question is on the motion of the Senator from Utah to strike out, on page 3, lines 14 to 19, both inclusive, beginning with t he word "except." (Putting the question.) By the sound the "noes" appear to have it.

Mr. KING. I suggest the absence of a quorum, and shall

demand the yeas and nays.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McKellar	Shipstead
Bayard	Frazier,	McLean	Shortridge
Bingham	George	McMaster	Smith
Blease	Gerry	McNary	Smoot
Borah	Gillett	Mayfield	Steck
Bratton	Glass	Means	Stephens
Broussard	Goff	Metcalf	Stewart
Bruce	Gooding	Moses	Swanson
Cameron	Gould	Neely	Trammell
Capper	Hale	Norris	Tyson
Copeland	Harris	Oddie	Wadsworth
Couzens	Harrison	Overman	Walsh, Mass.
Curtis	Heflin	Pine	Walsh, Mont.
Dale	Howell	Pittman	Warren
Deneen	Johnson	Ransdell	Watson
Dill	Jones, N.Mex.	Reed, Mo.	Weller
Edge	Jones, Wash.	Reed, Pa.	Wheeler

Edwards	Kendrick	Robinson, Ind.	Willis
Ernst	Keyes	Sackett	
Ferris	King	Schall	
Fess	Lenroot	Sheppard	

The PRESIDING OFFICER. Eighty-one Senators having answered to their names, a quorum is present. The question is on agreeing to the amendment offered by the Senator from Utah.

Mr. McLEAN. Mr. President, I think the proviso on page 3 takes care of the objection offered by the Senator from Utah, but I am very anxious to have this bill acted upon to-day, and I accept his amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

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Mr. Kenzel. This report, copies of which you have, has attached to it a copy of the bill which passed the Senate and a copy of the favorable report by the House Committee and also the minority report of the House Committee. There

is also attached to the report a transcript of the Congressional Record showing the debate on the bill in the Senate.

In 1921, after consideration by this Conference, the Federal Reserve, and all the Federal Reserve banks, through their directors, it was decided to try to secure Federal legislation to permit formation and operation of the plan as recommended by the committee. That was taken up with Senator Smoot. A bill was prepared but it was not introduced until April, 1926, when Senator McLean of the Banking and Currency Committee of the Senate introduced in the Senate the bill which was referred to his committee. There were two hearings on it and the Committee amended it in a way to which I will refer later. It was amended on the floor of the Senate to a minor extent. It then went to Mr. McFadden's committee of the House. He was engaged with the banking bill and feared to take it up with the committee while that was pending. As soon as that bill was out of the way this farm loan matter was referred to his committee and that prevented him from taking it up until about the middle of February, two weeks before the end of the session.

His committee had two hearings, both of which were attended by members of your committee. At those sessions some

opposition developed. It was largely of a political nature and I was assured by Mr. McFadden and others that it was not sincere. There was also some opposition developed on the part of the Metropolitan Life Insurance Company. They had been working for several years on a plan of selling annual deferred annuities, and put them in effect all over the country generally. I am convinced myself that their main reason for opposition to this plan is the feature which permits us to include the member banks. I do not believe they would seriously object to a pension plan just for the Federal Reserve banks, but in the feature which permits us to include the member banks in the System they see a good deal of competition. I am convinced that was the reason for the opposition, although it was not disclosed. When they appeared before the committee by one of their vice-presidents and actuary, they tried to talk it to death by consuming all the time of the committee. They have since denied that they are opposed to it, but said they were heartily in favor of a pension, heartily in favor of this particular one and would do all they could to assist. But that was not sincere. Fortunately I was apprised of what they were going to do and we fortified ourselves with the testimony from other

insurance companies, the New York Life Insurance Company, the New York Mutual Company and the Equitable. We had letters from their presidents and vice-presidents stating that they supported the plan strongly. Also one of the vice-presidents and actuaries of the Equitable came down and testified at the hearing for us.

The bill as finally reported out of Mr. McFadden's Committee was only two or three days before the adjournment of Congress, in the first part of March. The Rules Committee, upon whom we had depended for a rule to bring it up out of its turn, felt that in a matter where there was as serious opposition as had been developed in this minority report, that they could not very well report it to the House and give it the necessary time in the last few days of the session. Therefore they did not grant a rule and Congress adjourned with no action.

Mr. Burton, who was a member of the Rules Committee of the House, explained that to me and said there was no doubt, as he had been informed, that the opposition was largely based on misapprehension; that the only Republican member who signed the minority report had an idea that the pensions were to be paid to the higher salaried officers, fifteen, twenty and

thirty thousand dollars. They apparently were very much perplexed over the language and intent of the amendment that the Senate Committee put in. The Senate Committee amended the bill so as to provide that no more than 30 per cent of the maximum salary of an officer or employee could be paid as a pension out of the pension contributed by the employees of the bank. Now the effect of that was a limitation that aimed at practically the same limitation [illegible] was contained in the Rogers Bill, but that word "maximum salary" just stuck out like a red flag to certain members of the House Committee.

Mr. McFadden, since the adjournment of Congress, has advised me that there is no doubt that this bill can be passed very promptly at the opening of the next Congress; that his Committee has nothing ahead of it and he can take it up the first thing and put it right through. I have no doubt that Senator McLean can have reenacted the legislation ebacted before.

Since the adjournment of Congress this Committee has had a full meeting of all members and all its advisers and has considered very carefully, in the light of the discussions on the floor of the Senate, in the light of the discussions that developed at the hearings before the Senate Committee

and the House Committee, what, if any, amendments or alterations to the bill or plan should be made. We have decided to recommend certain changes in the language of the bill, which, however, does not change the plan.

The first of them is to "change the name of the fund from the Federal reserve pension fund to Federal reserve retirement fund and to eliminate, so far as possible, the word 'pension' from the body of the bill."

Governor Norris. Are those in your report, Mr. Kenzel?

Mr. Kenzel. Yes, you will find them on page 3. It developed in the hearings before the McFadden Committee that the word "pension" is rather like waving a red flag at a bull to quite a number of the people in the House. A gentleman from Massachusetts, for instance, has suggested this change, and then Mr. McFadden recommended it:

"To change the language of the amendment made by the Senate Committee to section 4 of the bill, which established the limit of the amount of any pension that could be paid from employers' contributions at 30 per cent of the maximum salary, substituting the expression of the same limitation by using the language of the Rogers Bill, i.e., a percentage

of the average salary of the last ten years of service."

Governor Norris. What is the Rogers Bill, a State bill?

Mr. Kenzel. The Rogers Bill is the State Department. [illegible] retirement plan, [illegible]. Members of the Committee could not get it out of their heads that the words "maximum salary" was not a limitation but rather indicated a method of determining the amount of pension.

Then we decided to insert in the bill a provision requiring return of their contributions to employes leaving the service. This was not mentioned in the original bill but was a provision of the plan. The minority report commented upon the absence of that provision, and there is no harm in putting it in.

Then they also objected to the participation of member banks. But it was decided by your committee to retain that provision, which would permit the member banks to participate in the plan, with the approval of the Federal Reserve Board. While it is realized that this provision is by no means essential to a successful retirement system for the Federal Reserve Bank employes, your committee felt that it was a most desirable feature for the member banks and was also in the public interest. It is very desirable from the point

of view of administration of the fund because if any material number of member banks participate it would reduce the cost of administration.

It has been brought to the attention of various members of your committee, and to the committee as a whole, that a large number of member banks are very much interested in it. Some of them are just waiting to see what is going to happen here, before they take some other independent step to establish their own retirement fund. In New York quite a number of the larger NewYork banks who have no formal plan are waiting to see what will happen to this.

The minority report of the House Committee protests section 6 of the bill as reserving the right to Congress to alter, amend or repeal the act, and further provides that the contractual rights of the individuals shall not be affected thereby. Our counsel advises us that, from a legal standpoint, the section could be omitted without hazard, because it is obvious that Congress may alter, amend or repeal any of its acts; that in his opinion the Constitution of the United States guarantees the individual necessary protection of their contractual rights; but he nevertheless advises that it should be retained, because in modern times it has become

customary to incorporate such a clause in all legislation of that sort. We therefore decided to retain that but we thought it could be omitted if it became the object of serious controversy.

In the discussion on the floor of the Senate, as these extracts from the Senate debates will show, considerable confusion did arise by people who did not read the bill, as to whether or not the incorporators of the bill or the trustees of the fund, being officers of the fund, would be entitled to a pension as such, and Senator King mentioned several names. He wanted to know if the Governor of the Federal Reserve Board should be entitled to it why not the chairman of some other Federal Board — I think he mentioned the Shipping Board. Of course they are explicitly excluded by the terms of the bill, but Senator McLean, who was quick to surrender a minor point to get his bill through, allowed the deletion of four or five lines andthat was the part of the bill which provided for including within the terms of the pension plan the employes of the plan itself or the fund itself. It seems almost ridiculous to have a pension plan and not have the employees and paid officers of the fund excluded from it. So we decided to reinstate this in a way by

using language that will be a little easier to pass.

The Chairman. The act itself provides that the incorporators and trustees would receive no compensation from which a pension would be paid.

Mr. Kenzel. Yes. They are specifically excluded in the language of the bill. The bill says, as first drawn, who shall be included, and then in another portion it says that members of the Federal Reserve Board shall not be. Of course there is no compensation to the trustees. There would be no basis for any.

Governor Seay. In the case of the employees themselves, who were not employees of the Federal Reserve banks, who would make contributions equivalent to that made by the employees of the bank.

Mr. Kenzel. The fund, the employer.

The Chairman. It would be part of their compensation?

Governor Norris. It would be part of the overhead of the fund.

Governor Calkins. Yes, it would be part of the cost of operation.

The Chairman. It would just be in addition to the cost of operation.

Mr. Kenzel. Now at the hearings in both the Senate and the House it was very apparent that some members expected that the major provisions of the plan, at least, should be inserted in the bill. Of course your Committee had given careful consideration to that question long before the bill was drafted, and determined that the terms of the pension plan should not be a part of the charter. We have again considered it and we can come to no other conclusion. It is most unwise, I think. I have a very interesting communication from Mr. Monell Sayre, that he prepared for the Senate Committee, and which I would be glad to r ead if the Governors would like to hear it, but the report speaks for itself. It is a question of the advisability of providing years and years ahead to meet economic conditions which cannot be foretold. With everything worked on averages and percentages, as we plan, there is that flexibility inherent in the plan that would take care of and adjust itself to changes in economic conditions. But to write into the charter the terms of the plan and the limitations in dollar amounts or anything of that specific nature is most unwise. I do not think there will be any necessity for doing it.

The Chairman. It is practically the only important point that is not met by amendments to the bill, isn't it?

Mr. Kenzel. Yes, and the maximum salary.

The Chairman. That is merely a matter of expression, the way it is expressed in the bill?

Mr. Kenzel. No, not entirely.

The Chairman. Making the reduction from eighteen to ten?

Mr. Kenzel. Yes. There again it is a question of putting limits in the bill. There were hundreds of pension plans established in England during the 18th Century which provided perfectly adequate pensions for the time, but which quickly became absolutely obsolete. Such pensions as sven pounds a year, ten pounds a year. They were ridiculous, and they had to be entirely redrafted.

The Chairman. You could not cite Queen Anne's day to those committees without subjecting yourselves to ridicule.

Mr. Kenzel. It was effective with the Senate Committee.

The Chairman. It would not be effective with some of the House committees, I can assure you.

Mr. Kenzel. Now, with regard to the maximum amount of salary which could be used as a basis of computing the pension this Board will remember that the Federal Reserve Board raised that very question at the outset. The minority report of the

House Committee recommended ten thousand instead of eighteen thousand. Mr. Stevenson, who apparently had something to do with that portion of the minority report, in correspondence with Mr. Platt, which you have seen, stated that they favored $9,000 as the limit because that is the limit in the Rogers Bill, but if they want ten thousand and the Committee thinks it should be ten thousand, all right. [illegible] Now, the fact is that $9,000 in the Rogers Bill is equivalent to no limit for us, because $9,000 is the maximum salary paid to any State Department employee with one exception, and that is am ambassador who has been p romoted from the ranks. There is only one such case at present, Mr. Fletcher.

The Chairman. There were two -- Mr. Phillips?

Mr. Kenzel. There were two, but only one now.

The Chairman. That is so. Mr. Phillips has resigned.

Mr. Kenzel. Congress, in using the $9,000 maximum salary, clearly r ecognized the necessity of a plan providing a pension which bore a moderate and reasonable relation to the salary. You could not pay a man twenty or thirty thousand dollars a year and then pay him a thousand dollar pension, because he would not retire. With an $18,000 limit it would

give practically $6,000 extreme limit of pension, and the cases would be very rare in which it would amount to anything like that. $5200 or $5300 or $5400 would be about the practical limit. We believe that is as moderate a pension as you could have that would be reasonably expected to affect a man drawing 18,000 or more salary. So we propose to retain the $18,000 figure and fight for it.

Governor Norris. You have fixed $18,000 simply because that is the highest figure that you think you have any chance of getting through?

Mr. Kenzel. The Committee and its advisors thought there should be no limit, with one exception. The $18,000 figure was a compromise, and with the Board also.

Now the other real problem, really a more serious problem than I have yet discussed, is the question of accrued liabilities. The accrued liabilities have never been definitely and positively ascertained since we had the first real actuarial computation back in 1920. At that time they were about $1,900,000, and it was assumed by the Committee and this Conference that the banks would absorb the entire amount. Senator Smoot thought that that was a bad provision, that it should be fifty-fifty, that half should be absorbed by the employees.

We had a recomputation — an estimate, not a recomputation — made in 1924, and it was thought that probably they were about $6,000,000 at that time. We do not know what they are at the present, but we believe they are somewhere in the neighborhood of eight or nine million.

Now, to permit the older men, with years of service, to participate in this plan, when it becomes available, say within a year or so, is going to make a tremendous contribution necessary from them, and we are advised that a contribution of more than ten per cent of salary is absolutely impracticable. So we have got to deal with the question of accrued liabilities in some way, through some adjustment, by maybe some little juggling of the rates here and there, not to do a wrong or injustice to any members, but possibly lower just a little bit the charge to the oldest employees so as to give a little more than what they pay for. However, to find out what can be done we should have another careful appraisal actuarial estimate and calculation made on the present employees. That would have to be done in any event before the plan could go into effect. We expected it would be done by the organizers, but we are told we can save at least six months' time in putting the plan into effect if we had it done as of June 30th of this year. There-

fore we recommend that the Committee be authorized to have an actuary go ahead and make calculations as of June 30th of this year so as to have our plan in water-proof shape immediately when we get legislation.

Governor Young. I so move, Mr. Chairman.

Mr. Kenzel. We had an appropriation, for an authorization originally, of $27,500 for expense in working out the preparation of the plan.

The Chairman. And you want $10,000 more?

Mr. Kenzel. Yes, we want $10,000 more.

The Chairman. I wonder if we could not act on this report now. I do not believe there will be any trouble about the money. The question is about the general scheme of changing the bill. Are there suggestions or changes offered by any of the members present?

Governor Seay. As I recall, the inclusion of member banks under the operation of the benefits of the bill was made because at that time it was estimated that it would have a favorable effect on legislators. I should like to see that eliminated from the bill, notwithstanding the fact that the Chairman of the Pension Committee has reported that any loading of the plan, as I understood him to say, would have

the effect of reducing the pro rata expense of the Federal Reserve Bank very materially. I should like to see it confined to the Federal Reserve System.

The Chairman. Isn't it a fact that if this pension plan proves to be a real success that it would be possibly quite effective as an inducement toward membership in the Federal Reserve System and be a very distinct benefit that the members would enjoy, and that many of them would ultimately get an advantage which they could not get by any other method?

Governor Seay. That is a matter I doubt. I may be wrong, of course, but I believe that some of the larger member banks have larger personnel, or as great, and greater than the average Federal Reserve bank, and probably would put in their own plan. Some of them might prefer to aid in the operation of this insurance plan to aid their employes in carrying it out. But if the member banks on any great scale should participate I imagi ne that the thing might become burdensome.

Governor Calkins. Burdensome to whom, Governor Seay?

Governor Seay. The operation of the plan might become burdensome to the Federal Reserve System. It might become too large, have too many employes, and so forth. Of course

if only a few should participate it would have little or no effect.

Governor Fancher. I am convined, from talking with many of the banks about this matter that many of the larger and medium sized banks would adopt the plan. I have discussed the matter with our Cleveland banks. One of our banks has a plan which was put into operation some years ago and it has got to be revamped. They are studying it now, and they are really marking time until they can determine how successful we are going to be with this bill. Some of t he smaller banks with a hundred and fifty to two hundred employes, which are not large enough to work out their own plan, would embrace it at once if they had an opportunity . It is going to be an inducement in strengthening the Federal Reserve System in my judgment. I do not share Governor Seay's thought about the cumbersomeness of the operation. I think we can set up this machinery which will function just like large insurance companies do; build it up gradually like they build up an organization. I do not believe it is going to be a burden. I think that an organization will gradually be built up that will be capable of handling it. I am convinced, from discussing this with a number of different banks, that it

will be pretty generally emb raced by many of our member banks.

The Chairman. We will have to discuss that feature of it, of course, but the question is the adoption of the plan now recommended. I think it has always been the sense of these meetings that it should permit inclusion of the member banks if they want to come in.

However, the question before the meeting is the adoption of the recommendations of this report and the giving authority to the committee to expend ten thousand dollars further, to be collected in the customary way.

Governor Calkins. I so move, Mr. Chairman.

Governor Biggs. I will second it.

(The motion, being duly seconded, was carried.)

The Chairman. Does that cover the job, Mr. Kenzel?

Mr. Kenzel. It does. Now, if anyone desires to ask me any questions, I would be very glad to answer them.

Governor Norris. There is one question I would like to ask. I see in the minority report of the House Committee it states that the plan in addition to providing pensions for retired officers and employes, provides for pensions to dependants such as may at some time have been dependent upon such

officers or employees. Is that true or not?

Mr. Kenzel. It is true as to language but not true as to what meaning was intended to be conveyed by the criticism.

The Chairman. If it is capable of that construction the language should be qualified.

Mr. Kenzel. The way the thing was framed with regard to paying benefits to beneficiaries of deceased pensioners, they had to be declared as something. They are persons who have been dependent upon an employee.

The Chairman. That is a question of benefits and return of capital?

Mr. Kenzel. Yes, return of capital and death benefits.

The Chairman. Are there any further questions? If not let us take up Topic 2-C, which was suggested by Dallas and then by Boston. Governor Talley, will you [illegible] state what is in your mind?

II. COLLECTIONS AND CLEARINGS.

C. Discussion of ruling of F.R. Board providing that where nonmember banks desire to receive their own items from F.R. Banks and agree to remit at par in satisfactory exchange, it is incumbent upon F.R. Banks to so route the

items.

1. Should not member banks be given preference in routing checks on nonmember banks in the same town or city where such items are desired by member banks?

2. Shhould F. R. Banks send checks to nonmember banks when there is a member bank in the same place?

Governor Talley. That has to do, Mr. Chairman, with the ruling of the Federal Reserve Board providing that where a non-member bank is willing to remit at par in acceptable exchange, the Federal reserve bank is required to send items direct to that non-member bank regardless of t he existence of member banks in the same town which may desire to receive the items. It always seemed to us that where a case of that kind came up, when we had the direct application of a member bank to receive all the items on its town, including items on itself and the items on non-member banks in the town, that w e should be permitted to so route them. We have never been able to do that by reason of the insistence on the part of the Federal Reserve Board that we do otherwise.

I think you will recall that in the original Regulation J it is stated that in routing items member banks will be given preference. Of course that was at a time when we had

no non-member banks on the par list, which was afterwards created. Our thought about that is evidently just a little different from that of Boston. It is apparent, and if I am not correct in this assumption Governor Harding will correct me later, that what Boston wants to do in some instances is to get as far away from sending items to non-member banks as they possibly can.

The Chairman. I do not interpret it that way. It seems to me there are two questions involved in the ruling. One is the question which you raised as bearing on the member bank as our collecting agent, and the other whether the reserve banks may send items direct to the checking bank —

Governor Talley. That is what I mean exactly.

The Chairman. That is Boston's position.

Governor Talley. That is what I mean. Boston wants to send items on a member bank, in the same town where there is a non-member bank which it does not prefer to send items to and does not desire to send them to, to the member bank. Now the question arises that in undertaking to give the member banks the preference as a broad proposition in sending items to them, the question arises about anything that they take in payment being actual payment as far as the Federal

Reserve Bank is concerned. However, I do not want to go into that side of the question. We don't want to voluntarily route items to member banks, but we would like to be in a position to send items on non-member banks to member banks in some town where the member bank makes a special request for the item, regardless of the fact that the non-member bank might offer to remit for the items at par on receipt in acceptable exchange.

The Chairman. Did I understand that the ruling of the Board, which I haven't before me, would require every Federal Reserve Bank to send items direct to any non-member bank, non-member par remitting bank, which agreed to remit at par?

Governor Seay. In satisfactory funds.

The Chairman. We cannot always abide by that.

Governor McDougal. We are not abiding by it. We have never had any such order or ruling from the Board and there is nothing of that sort in our files.

Governor Norris. I would like to see that ruling.

The Chairman I would clearly think there were two questions involved. One the relation with member banks as distinguished from non-member banks, and the other a credit question upon which every bank has got to pass for itself.

Governor Talley. Do not misunderstand me in that connec-

tion. The Federal Reserve Board gives us plenty of latitude, plenty of discretion in the matter of sending items to non-member banks. We have, however, one of the strongest and most direct letters that we have received, coming from the Federal Reserve Board on that question.

The Chairman. How did the question come up originally, Governor Talley?

Governor Talley. The question came up by the omission of that statement from Regulation J. The original Regulation J stated that in so many words, that in routing checks a member bank should be given preference.

The Chairman. Is not the present regulation satisfactory to you?

Governor Talley. Well, the present regulation does not state that.

The Chairman. But it is satisfactory and you can operate under it.

Governor Talley. By reason of the fact that that authority to give member banks preference was omitted, then the question came up in reference to routing items from non-member banks to member-banks in the same town. We have many letters on the subject where the Federal Reserve Board holds the opposite view, in view of which fact we have never felt

that we were permitted to do that.

The Chairman. It is simply an operating problem for the bank to decide. You have the Board's Regulation and you can interpret it. I think the other banks are sending items either direct or not direct, according to conditions that govern and the matter of safety.

Governor Young. We have had the same trouble.

Governor Calkins. As a matter of fact the matter is now optional with the Federal Reserve Bank. If we do not receive remittance in satisfactory funds we do not send checks to a bank that does not remit in satisfactory funds.

Governor Talley. But that question is not involved in my question here at all.

Governor Calkins. I understand that question is not involved, but I am wondering whether that is not the question you are really talking about.

Governor Talley. No, not at all.

The Chairman. I see no reason for raising the question. You are operating in the way you wish to down there, are you not?

Governor Talley. No, we are not.

Governor Young. We have gone all through this in Minnea-

polis. Governor Talley can correct me if I am wrong. You have two banks in the town, a State bank, a non-member and a national bank, a member. Both are good banks. We are now sending items on the State bank to the State bank, and they are remitting in satisfactory exchange. The member banks request that we send those items to them. That is the problem. We have refused to do it, because any way we can figure it out the non-member banks have got us licked any way we turn.

Governor Bailey. We think where they ask us to do it we should do it. But assuming a proposition where both a member andnon-member bank are good banks, we have instructions from the Board to send them to the non-member bank. The member bank feels that it is being reflected upon because it is helping to support the System and wants to get the advantage of the checks that come to the non-member banks. We are then confronted with the proposition: The Board has advised us to send them to the non-member banks and our member banks do not want us to do it. We would rather send them to the member bank, and if it was not for the decision we would not have to decide between the two banks.

Governor Biggs. We have overcome that in as many as fifteen or twenty cases two or three years ago. When we had two good banks, one a member and one a non-member, and the non-member wanted us to send them, we took the position that we could not do it unless they opened up a par account with us. They have done that and we send the items and they keep a sufficient account to cover all letters that we send them. That is the way we have handled it, and it has been very successful.

The Chairman. It seems to me it would be better to leave it where it is and let each reserve bank work it out.

Governor Bailey. But in the face of this ruling, which the non-member bank knows, if we do not send them, we are then asked why we do not send them.

Governor Wellborn. We have always considered that a matter to determine ourselves. We change it any time we choose.

Governor McDougal. This collection system was set up with the understanding that in determining this question if the member bank was in reasonably good condition it would be given preference. That has been followed and I think it should be followed. They are depositors and stockholders,

and ordinary banking custom would dictate such procedure, I do not see that this question has any place here. I think it is one for each bank to determine in accordance with the attending circumstances, and I would like to see the discussion closed on it.

The Chairman: I do not agree with that argument at all. I think the true argument is that the non-member banks are willing to surrender the exchange facility and are asking in consideration of their doing so this return, and if they are in good order and can remit in satisfactory exchange I think we ought to send the items to them.

Governor Bailey. Those are the instructions the Board has sent to us.

Governor Young. That is the Board's ruling, just that view, and Governor Talley complains about it. He wants to send to the member banks.

Governor Fancher. I am convinced that the sending to non-member banks has resulted in our getting members. I think that has been one of the things that has turned banks to a favorable consideration of membership and has brought them in. I think this matter should be left to the banks themselves to determine.

Governor Seay. I would like to say that in our experience and our opinion there are two considerations which testify to the wisdom of the practice of sending direct to non-member banks when they are in satisfactory condition and when they will remit in acceptable funds. One is to do the contrary at once and place an automatic limit upon taking non-member banks into the par system. The other is that invariably in our experience sooner or later dissatisfaction arises as between our member banks to whom we are sending items, if we do send them, and ourselves. They are not satisfied to continue the arrangement. Some condition may arise locally which will induce the member bank, which has agreed to receive the items, to discontinue. Then you cannot go to your non-member bank. Always, without exception, we have found that it was an unsatisfactory experience to send items on non-member banks to other banks in that location if the non-member bank is willing to take them.

The Chairman. Governor Harding, I think it is time for your comment on this.

Governor Harding. I just proposed this topic in order to bring out some interesting points. Some time ago the Waldo Trust Company of Belfast, Maine, failed. We had been send-

ing their checks to them on their reque t, although the First National Bank of Belfast was willing to take them. We have no statements from these non-member banks and do not know anything about them, The only thing we have to go by is their promptness in remitting. They were always very prompt. They failed, and we had $7500. We had some items in transit which we stopped, and there was no trouble there, but we had $7500 which had gone through and been charged up to the depositor. We had checks on a Boston bank in payment of them, on which payment was refused. We went through our files and we charged back to the various member banks who had sent us these checks these amounts. We had no trouble about it ourselves whatever. We are protected by our agreement with them and I notice that the courts generally uphold this agreement. There has been a recent case in the Supreme Court of Missouri deciding that that absolutely protects the reserve bank, despite the old common law ruling that you must send a check to the bank on which drawn.

Now the point is this: We charge our depositing banks back with these items and we are free. They in turn charge them to their own depositors, but somebody has a loss which might have been avoidedhad we sent thme checks on non-member

banks about which we knew nothing for or against, to a member bank. I was just wondering what the ethics of that case are.

There is another factor that has come in that may work or may not. A little bank in Kingston failed and we had ten thousand dollars tied up in the same way. We took that up with the Rhode Island authorities and they held that such remittance constituted a charge and gave us the preference and we collected every cent represented by those checks. That is a good thing if you can get it established generally, and we are trying to do it in Maine.

Governor Bailey. We have it established in Missouri.

Governor Harding. There is no trouble. So far as the Federal Reserve Bank is concerned we are protected. We established that preference in the Rhode Island courts and are trying to do the same thing in Maine. Looking at it from the member banks' standpoint, the law itself provides a means for non-member banks to use the collection facilities of the Federal Reserve Bank by saying that they shall carry at least a sufficient amount to offset the items in transit that they may send, and that therefore they may send the checks to the Federal Reserve Bank and have them collected. At the present time we have no banks which avail themselves of

that privilege, but it is there if they want it. The law does provide that means. Now, let us consider what we have got in the case of the member banks. We have their statements, we know what they are doing. We have their reports and we have their reserve balance. We have their uncollected transit items which will mature in a day or two, so that in case anything happens we have a set-off. In the case of the non-member bank we have not. We have had some cases where non-member banks that we received items on would not remit, and in all such cases we have told them that we are going to discontinue sending items unless we are protected. We require them to deposit securities with us, under a legal agreement that we can hold the securities as a set-off against any deficiency in remittances. Sometimes after we have held the securities for a fewmonths and after they have established a record for remitting promptly, then we have released the securities to them. I do not want any action. I merely put this on the program to talk about it.

Governor Talley. We feel that if we should undertake to offset the proceeds of checks out for collection, against any assets in our hands, that we would then relinquish our status as agent and would own the checks. We believe that sets up a

bad situation. We never offset outstanding checks against any assets that we have in our hands, regardless of whether it is a member bank or non-member bank. We feel that if we should take the securities to cover the transit sending, that then we are guaranteeing payment of the checks that we receive on the bank.

The Chairman. Do you want some action on this topic, Governor Talley?

Governor Talley. Not unless Governor Harding asks for it.

The Chairman. I mean on your original question, which is not the one being discussed now.

Governor Seay. We have recently had a suit in which counsel for the other side argued that it was the duty of the Federal Reserve Bank to inform itself as to the status of these non-member banks to which they sent checks for collection. The Court, however, did not adopt that view.

Governor Calkins. We have had both kinds of suits. One is now being appealed, I believe. I think it is well established by the experience of all of the reserve banks that so far as the protection to the reserve bank against loss is concerned, it is better protected in the case of the kind Governor Harding has described, where the transaction

is with a non-member bank regarding which we are not presumed to have information. They are better protected than in the case where the transaction involves a member bank where we are supposed to be fully informed of the condition of the bank. We are better protected under the provisions of the collection circular in dealing with a bank regarding which we have no specific information than we are when the bank upon which we are put on notice.

Mr. Chairman, I therefore move that no action be taken on Topic II-c.

The Chairman. Is that satisfactory to you, Governor Talley

Governor Talley. Yes, sir. I will be glad to constitute myself a committee of one to take it up with the Board.

The Chairman. The subject is referred, by unanimous consent, to Governor Talley.

Governor Fancher. Mr. Strater, have you a letter to this office from the Board?

Mr. Strater. There is only one letter that I could find which bears only indirectly on it. I wondered if it was the ruling in the X-letter of June 29, 1926, to which Governor Talley referred. It refers to striking from the par list a non-member State bank which has agreed to remit at par and

the Board rules that the Federal Reserve banks may, of their own volition, remove from the par list any non-member bank which repeatedly failed to remit promptly for cash letters sent to them, and so forth.

Governor Talley. That is the letter I referred to incidentally a while ago when I spoke of the Board giving us plenty of latitude to remove the names of non-member banks from the par list. But there were several letters prior to that.

Mr. Strater. There may be correspondence with your bank that I do not have. I can find no general ruling of the kind.

Governor Talley. I only meant to imply that the Board had ruled in reference to a specific case set up in our correspondence.

The Chairman. Gentlemen, we have discussed Topics C and D also. Governor Talley and Governor Harding both say that they desire no action. The next topic is II-e.

II. COLLECTIONS AND CLEARINGS.

E. Possible reductions in number of checks handled by F. R. Banks account of automobile registrations and drivers' licenses.

Governor Norris. I put that on the program, and when I

sent it to Mr. Harrison I stated that I was putting it on the program simply to get a little information. It does not require any action.

In Pennsylvania the State Highway Department has no branches. It operates entirely from Harrisburg and it requires applicants for registration of cars and drivers' licenses to send checks, not cash or money orders, and even in the case of corporations that operate fleets of trucks, or taxicabs, up until this year they required a separate check for each car license and driver's license. The result is they have handled about five and a half million items each year, and the general practice heretofore has been for the State Highway Department to put those checks through their work, then send them to the State Treasurer, who puts them through his work, who then deposits them in a non-member trust company in Harrisburg; they send them to two national banks in Philadelphia and they send them to us. Then as to the checks in the western part of the State, we have to send them to the Pittsburgh branch or to Governor Fancher's institution, and then they send them to the bank on which they are drawn.

The result of this thing has been that in January and

February we get dollar checks by the chest load. We had one shipment to Pittsburgh upon which the postage was $18.

This year we got the State Treasurer to send the Pittsburgh checks direct to Pittsburgh. He sent them to the bank in Pittsburgh and they called us up on the phone and asked us if we could tell them why they had suddenly received nine hundred thousand dollar checks that they had never had to handle before. In New Jersey they have three or four branches in different parts of the State.

The Chairman. They have in New York. It is all zoned.

Governor Norris. I urged our State Treasurer to adopt that system. He said he would look into it and he reported shortly afterwards that he had consulted the official in charge in Jersey andthat official told him that he was lucky that he didn't have to have any branches in Pennsylvania. So he is not disposed to have any branches.

I just want to find out whether this trouble that we have been having existed in any other States or not. It would only take a moment, and therefore I would like to get that information from several of the larger cities in other States.

The Chairman. In New York it is zoned and broken up

into small sections.

Governor McDougal. In Illinois it is not zoned. If it was of course our troubles would be somewhat less. All payments in Illinois are made in Springfield.

Governor Norris. And the bulk of them are sent to you or they come to you?

Governor McDougal. I presume they do, yes.

Governor Norris. How is it in Massachusetts?

Governor Harding. In Massachusetts they are two-dollar checks instead of one-dollar checks.

Governor Norris. Have they three or four zones in Massachusetts?

Governor Harding. Yes, but they are two-dollar checks instead of one-dollar checks.

Governor Fancher. In Ohio we have different agencies authorized to issue licenses and accept payments. I do not know the number but there are quite a number of agencies that issue licenses.

Mr. Strater. There is at least one in every large town.

Governor Fancher. I do not know the number but I think it is in every important county seat and town. At any rate it is largely broken up.

Governor Calkins. California has more automobiles than any other State. The State is zoned for the purpose of issuing licenses. They have also established a large number of agencies, the largest of which is the Automobile Association, which issues licenses and handles the transaction.

The Chairman. Does that answer your question, Governor Norris?

Governor Norris. Yes, thank you.

The Chairman. We will then pass to topic II-f, put on by Minneapolis.

II. COLLECTIONS AND CLEARINGS.

F. Removal from Par List of nonmember banks because of inability or unwillingness to furnish exchange immediately available.

Governor Young. Minneapolis at the present time has 350 banks which do not remit in Twin City exchange. The great majority of them cannot furnish Twin City Exchange. They furnish Sioux City exchange ot Milwaukee exchange and I learned yesterday that we are collecting in a way that possibly we should not be. In other words, we send those Milwaukee checks right to Mailwaukee and do not send them to Chicago. We send

the Sioux City checks right to Sioux City. This is something that developed away back in 1919 when we tried to make the entire country par. We entered into it as a temporary arrangement. Conditions have been so bad ever since it would seem advisable to throw a lot of banks off the par list. I do not think we would do it now except that information is noised around more or less and undoubtedly when an competitor finds out that a State bank is remitting in Sioux City exchange, Chicago exchange, or what-not, they will want to do the same thing. It places us in a rather embarrassing position, so much so that our people are almost tempted, by demanding available exchange of those banks that cannot furnish it, to throw them off the par list. We have 1100 off the par list now. 350 more would be 1480. Before taking that action I thought I might ask an expression of opinion from the Governors as to the advisability of doing it.

Governor Seay. Do you require immediately available funds in all cases?

Governor Young. No, that is the trouble, we do not get it.

Governor Seay. Is it your rule to require immediately available funds?

Governor Young. That is a rule we would like to have, yes.

Governor Bailey. That is a rule you have with your member banks?

Governor Young. No, that is a rule we would like to have; but when you have a member bank and a non-member bank in the same town you cannot treat the non-member bank on more favorable terms than you treat the member bank, and the condition is spreading and growing.

Governor Seay. As a matter of practice do you specify the funds that you will receive from non-member banks, which are not always immediately available funds? If you do not accept them it would limit the non-member banks very much more seriously --

Governor Young. That is the question.

Governor Fancher. We have in the fourth district a number of small non-member banks that maintain their reserve accounts with Columbus and Toledo. We accept their remittances on those banks in those cities. The Columbus banks, to retain those balances, have effected an arrangement whereby they are charged against the balances of the Columbus member-banks when they come into our hands, so that there is no flos

so far as that is concerned. The draft is charged subject to final payment and reaches the paying bank. If I undertook to say to the small banks you must remit in funds available it would mean the closing up of their accounts in Cleveland, Pittsburgh and Cincinnati, and would inevitably result in our losing a number of State banks that are willing to remit at par. If we were to insist upon their remitting in available exchange we would have a number of banks drop off our par list and we would regret that.

Governor Seay. Where the member banks have raised the issue and where it has been pointed out that we were taking the best funds that couldbe obtained and doing so in the interest of the member banks themselves, nothing further was heard from it.

Governor Calkins. We have had cases like those Governor Fancher has mentioned and we have taken the same position he has taken. As a matter of fact, it appears that when we have had long experience with a member bank which remitted promptly in the best funds that it could provide that we had no ground upon which to r efuse to continue to permit them to cooperate.

The Chairman. Of course our par list has been reduced

much more than the proportion of the reduction which would be explained by bank failures or consolidations. Our par banks have gone down from 18,605 in 1920 to 13,781 in February of 1927. The non-remitting banks not on the par list have only gone down from 9800 to 9300. The non-par list banks have increased from 2,040 to 3833.

Governor Young. Inwhat time?

The Chairman. In the last five or six years.

Governor Fancher. There is practically no change in the Fourth District. With 1900 members and non-members, we have only ten banks not on the par list.

Governor Young. The worst showing perhaps is in Minneapolis. We had 4,000 in 1919 and 1,200 have closed. That brings it down to 2,800. 1100 are off the par list and that brings it down to 1700.

Govern or Seay. It is not germane to this immediate question, but for fear that I may overlook it I would like to say that there has recently been an extremely interesting decision by the United States Circuit Court of Appeals of our District, growing out of the North Carolina statute with reference to par collection. You recollect that that statute provided that when checks were sent to a [illegible]

bank by the Federal reserve bank that that bank might pay them in an exchange draft on its correspondent, and that the drawer of the check was not released. The Court held that inasmuch as the statute provided that an exchange draft could be sent in as payment that in accepting it the Federal Reserve Bank was not guilty of negligence, since the statute provided also that the drawer of the check was liable until that exchange draft was paid.

Governor Talley. Was that in the State court or the Federal court?

Governor Seay. The Circuit Court of Appeals?

Governor Talley. Has that gone to t he Supreme Court, do you know?

Governor Seay. I do not know. It has not gone yet.

The Chairman. Governor Young, what action would you like to have taken on this matter?

Governor Young. We are inclined to throw these banks off the par list.

The Chairman. 350 more of them?

Governor Young. Yes, sir.

The Chairman. Do you want any action on this?

Governor Young. No, I do not need any action. I am

simply stating what I am thinking of doing.

The Chairman. Is there any objection?

Governor Seay. I respectfully suggest that he hesitate a long time.

Governor Fancher. I think it is a very drastic proposition,

Governor Talley. We follow the practice in principle, but it does not amount to so much in volume. We only recently discontinued accepting from non-member banks remittance drafts drawn on other non-member banks, and as a consequence we had to take off some eighteen or twenty banks from the par list.

The Chairman. You would accept drafts on balances drawn on a non-member bank, would you not?

Governor Talley. Yes.

The Chairman. Would you accept a draft on a city where you did not have a branch?

Governor Talley. Yes.

The Chairman. Then you are doing just what Governor Young is proposing to blackball 350 members for doing.

Governor Talley. I assume the basis for his position is that these non-member banks sending remittance drafts on

other non-member banks are remote from Minneapolis.

The Chairman. Any bank, member or non-member.

Governor Talley. We find that the chief opposition comes from the non-member banks through our attempting to act as correspondents for the collecting non-member bank. That is the bank that raises a row with us. It is not the remitting bank. The bank on which it desires to draw is the one that raises the row with us.

The Chairman. As I understand, Governor Young's position arises from this: These 350 non-member banks on the par list ~~to~~ remit in settlement of cash letters, funds which are not immediately available in Minneapolis. Is that right?

Governor Young. Yes.

The Chairman. Whether they are drafts drawn on member or non-member banks they are not immediately available, so he has to go through another collection process. Therefore he proposes, on that account, to discharge these gentlemen from membership in the club and possibly raise the club dues a little bit. Is that the idea?

Governor Young. That is the idea; raise the dues of the members.

Governor Wellborn. We have been confronted with the

same trouble that Minneapolis has had, but with fewer banks, I suppose. Gov ernor Young is basing his idea upon self-preservation, and in that case he ought to do whatever he thinks is wise and whatever his board determines in the matter.

Governor Young. There is some liability in handling items, which can be guarded against pretty well. For instance, if we accept anything other than immediately available exchange, we are out of luck, if a bank closes. We usually get sufficient warning so we can get out from under before they actually close — not always, but in the great majority of cases. We would regret to see any Federal Reserve Bank take the position, after they have accepted a remittance draft that was not immediately available on receipt, hate to see it in a position where it would suffer liability for having accepted that draft or for having accepted the check in the first instance, because our collection circular plainly states, and so does Regulation J, that a Federal Reserve Bank might accept a remittance draft in payment of a cash letter. I would hate to see the precedent established or the question arise that if a Federal Reserve Bank should receive a draft in payment of items sent it that it would be under any liability

whatever for having accepted the remittance draft.

The Chairman. Have you had sufficient expression of views to satisfy you?

Governor Young. There seems to be a difference of opinion. I will go right on or quit, whichever you say.

Governor Fancher. The question of solvency is not so much involved?

Governor Young. With regard to these banks?

Governor Fancher. Yes.

Governor Young. I cannot say about that.

Governor Fancher. Where you think a bank is weak you take them off anyway.

Governor Young. If for four or five years they have remitted promptly, and they get slow, all right, we throw them off.

Mr. Fancher. You throw them off anyhow.

The Chairman. Having been through five of the most difficult years, isn't it to be expected from now on that those troubles will be somewhat reduced, and you can afford to take this less available exchange rather than further impair the par system by such a big loss of remitting banks in your district?

Governor Young. What is taking place now is, for instance, that we may accept a check, that we may accept Chicago exchange from one bank and they go and talk with their neighbor, which may be a member bank, and the member bank insists on remitting in Chicago exchange too, and they gain one day on me. Now if that keeps on spreading it is only a question of time until Minneapolis is going to have all the float. Then we may have to take action and I was wondering whether it was good policy to head it off at this time.

Governor Fancher. We have had those cases -- not many of them -- where a member bank has had funds in some other center outside the district and we have suggested that they have funds transferred, where they have accounts in Cincinnati, or Pittsburgh, to transfer the funds to Chicago and draw a draft in the regular way --

Governor Young. I have suggested that to them also, but they do not do it.

Governor Seay. Is the immediate credit symbol in operation in your District?

Governor Young. Not that I know of. What is it?

Governor Seay. It is an arrangement which your member banks may affect with their correspondents by which they

agree to permit you to charge to their account checks of their correspondents upon themselves sent to the Federal Reserve bank.

Governor Young. No.

The Chairman. Governor Young, have you now heard enough discussion to justify you in withholding this drastic action temporarily?

Governor Young. I will be glad to withhold action if that is the unanimous view.

The Chairman. I think that is the sentiment here, that we regret to have such a big loss of remitting banks.

Governor Young. Very well. We will go along for a while longer and see how it turns out.

Governor Calkins. There are two questions which have not been very clearly defined and which seem to me should be. The first is, whether it is expedient and perhaps necessary to remove from the par list a bank in regard to the solvency of which you have any doubt. There is no question but what we have all done it and will continue to do it and should do it. The second question is whether you should make a summary rule to the effect that if the bank does not remit in

immediately available form it shall, ipso facto, be thrown off the list. Those are separate questions entirely.

The Chairman. We will now proceed to discuss Topic II-B. The first gentleman having the floor in that particular matter should be Governor Fancher, who brought it up first with the Secretary.

II. COLLECTIONS AND CLEARINGS.

B. Non-Cash Collections.

1. Discussion of ruling of Fedcral Reserve Board as to optional charges for handling non-cash collection items, and situation arising from the Minneapolis method of handling non-cash collection items.

2. Resolution of Governors Conference submitted to Federal Reserve Board on the question of non-cash collections. (See paragraph 28 of Secretary's Minutes of November, 1926, Governors' Conference.)

Governor Fancher. This proposition has grown out of correspondence ith the Federal Reserve Bank of Minneapolis in relation to two collections set up there for one of our member banks payable at the Midland National Bank and Trust Company on which a collection charge of one tenth of one per cent was made, amounting to $17. When that charge

was made we corresponded with the Federal Reserve Bank of Minneapolis and were advised that that was in accordance with their notification to the other Federal Reserve Banks and that the charge would have to stand.

I wrote the Federal Reserve Board specifically and called attention to the Board's letter X-4677, and that the procedure which was prevailing in Minneapolis was contrary to the very clearly expressed language in the Board's letter, that the option applied to items payable at street addresses. That resulted in an exchange of letters. I wrote a letter to the Board on March 2nd and did not get a reply to m y letter until April 7th, and then was informed by the Board that the Board had in fact given the Minneapolis bank permission, and in accordance with the permission given the Minneapolis bank they could turn all non-cash items over to member banks for collection and subject them to a charge.

The last letter I had from the Board under date of May 5, sent me copies of correspondence with Mr. Mitchell, Chairman of the Board of the Federal Reserve Bank of Minneapolis, in reference to the resolution passed by the Board of the Minneapolis bank, which was rescinded, and another resolution passed, and under that resolution permission was given to the Minnea-

polis Bank to handle all non-cash items by turning them over to a member bank for collection. Without any notice to the other eleven banks that arrangement had been permitted which did not conform to the Board's letter X-4677; that it has raised some embarrassing situations on the part of our bank, and perhaps some of the other banks in handling non-cash items payable in Minneapolis.

Now the effect of that is that, on r eceipt of the Minneapolis letter advising us on February 1 that they were going to put this plan into effect, we notified our direct sending member banks that we understood the arrangement to be, lacking any advice from the Federal Reserve Board — we assumed that the arrangement applied to the handling of non-cash items so far as the charge was concerned, and we found ourselves somewhat embarrassed with our larger member bsnks. We had protests from banks in Columbus and Cincinnati and protests from some of our smaller banks. We had the case the other day of a fair sized bank with many collections, both drawn on their town and collections which they send out, and they have always handled the collections we sent them at par. They had a collection in Minneapolis on which a charge was made recently and it raised a question

in their minds why, if Minneapolis is to make a charge, they should not now make a charge for items which we have been sending them and which they have been quite willing, on a reciprocal basis, to collect without effecting an exchange charge? It opens up the question in the minds of some of our smaller banks that here is a service that perhaps they should charge for now.

The Chairman. There is a very fundamental misunderstanding about this thing. For three or four years we have been discussing the handling of non-cash collection items, and to refresh your memory, we undertook that service in the first instance by approval of the Federal Reserve Board given in 1917. It was undertaken, notwithstanding the fact that at our meetings we had all advocated going pretty slow about opening up the doors to a mass of direct items that would come into the Reserve Banks. When the service was first undertaken the regulation provided for a per item charge of 15 cents. When we got, possibly, unduly optimistic about earnings and services of member and non-member banks, that charge was abandoned with the other charges for our collection department. I have always regretted it very much.

Now that was the situation until various ob jections

were raised at our meetings to a continuance of that service, and I think I can state what those objections were.

One was the great expense and possibility that it might cost, according to one estimate, ten or fifteen million dollars. Another was the objection of member banks that it was competition. Another was the technical objection which was raised that the reserve banks were imposing more onerous charges for items that were payable at street addresses than the commercial banks imposed, and the final argument, which I think had more influence with the meeting than any other, was that advanced by Governor Young, that it was a very great credit risk and responsibility in his district in handling this type of collection items, due to the condition of banking there.

I do not recollect -- I have not been at all the meetings-- but I do not recollect that an objection came up, or was generally expressed by anybody at our meeting, which had to do with the compensation to member banks for collecting items. When I first learned of this, Governor Young, it struck me that it must be an effort on your part to evade some of your responsibilities up there in handling items on banks in uncertain condition, but it seems that what is really involved

is that the Federal Reserve Bank of Minneapolis wanted to discontinue collecting items in Minneapolis for various local and technical reasons, so they turn them over to the member banks, which now charge for items payable both at street addresses and at banks. Is that correct?

Governor Young. That is correct.

The Chairman. The unfortunate consequence of this break in the levee, so to speak, is that it is going to spread, and as one after another bank is called upon to pass charges back to their customers for collection of items which have heretofore been made without a collection charge -- and this is simply a collection and not an exchange charge -- reprisals will be made, and I am frank to say that in time it will embarrass us very much in maintaining our position with the New York city banks. In due time, when the member bank gets their teeth firmly set in the idea that there is a big revenue here, instead of paying exchange charges universally on the collection of items, we will have to pay collection charges. The unfortunate part of it is that it was tried out as an experiment, without consultation with the other reserve banks and without apparently consideration as to what the situation would be in their districts. I am

very much afraid of it and I think it is causing dissension which is spreading throughout the other districts and may upset the apple cart.

As I see it, the other reserve banks are in this position. After three or four years of struggle we had finally gotten what I understood was the final approval of the Federal Reserve Board with regard to the non-cash collection service -- we were approaching it at any rate -- and now this experiment that is being attempted in Minneapolis is certainly going to defer the settlement of that vexing question.

Now, what to do about it? We have been here at these meetings always with nine banks regularly and consistently voting to perform the service and we were performing it; with a collection committee always reporting in favor of it and now, unfortunately, the spread that the Barton committee was most anxious to see developed has now developed in our own ranks. I think it is very unfortunate, Governor Young.

Governor Young. I think every statement you have made is correct. I will not contradict it at all.

The Chairman. Couldn't we get at this in some other way than through experiment?

Governor Young. Yes, I think there is another way to

get at it. I have heard the discussion around the table this morning to the effect that conditions in each district are entirely different and that while uniformity is desired in many things, it is not practicable. It is not practicable in your own district, where you collect on New England in two days. We can get a vote around here any time of eleven to one on that.

I have tried to put Minneapolis in a position before this Conference -- not only once, but several times in the last seven years -- where it would be understood, but I do not seem to get the story across.

I propose that the Chair appoint a committee and send it out to Minneapolis to see what the conditions are. They can go into it themselves, and, six months from now, report back to this Conference.

The Chairman. We could get our collection committee to go up there.

Governor Young. Fine.

The Chairman. I see no objection to that.

Governor Biggs. If you wait six months you are going to have serious trouble in our section. Memphis and Little Rock are just waiting on this thing and they are raising

trouble. It is causing more trouble than the flood.

The Chairman. I will tell you the unfortunate part of it. We did not have a hack at this before it was done. Now if there is a situation up there that r equir es further demonstration why not have somebody go up there and investigate it --

Governor Young. Minneapolis will listen to reason on anything at all that does not set it back to the method of handling non-cash collection items which was in operation previous to February 1, 1927.

Governor Seay. It is a revenue proposition that you have in the Minneapolis banks, isn't it?

Governor Young. With the Federal reserve bank?

Governor Seay. No, the member banks.

Governor Young. A revenue proposition?

Governor Seay. A revenue proposition.

Governor Young. It results in a revenue proposition to them.

Governor Seay. Because the letter distinctly states that it was not a collection charge per item they were after but an exchange charge.

Governor Young. Yes.

Governor Seay. Then it is a revenue proposition.

Governor Young. A revenue proposition.

Governor Norris. On that point I think it would be just as well to have on the record a statement of the enormous tax on business that this constitutes, the enormous source of profit that it is to the member banks in Minneapolis. In Philadelphia last year we handled 86,349 non-cash collection items amounting to $170,309,259. The actual cost to us for collecting those items was $11,783.47. If handled under the Minneapolis procedure the cost would have been $170,000.

The Chairman. This percentage charge is certainly going to raise cain. This business of uniformity is not applicable to every last item in the way of collecting checks, and so on, but if there is any one thing where it is not only applicable but absolutely essential, it is in the charge for a service. We have struggled with this, we made a recommendation to the Board to reconsider the rulings and allow each Federal Reserve Bank to decide for itself about street addresses, and despite all that the Federal Reserve Board has made a private arrangement, without notice to anybody --

Governor Young. Let me correct that --

The Chairman. We never got any notice of it in New York.

Governor Young. They got your protest.

The Chairman. After it was done.

Governor Young. Oh, no. The arrangement with Minneapolis was entered into after the resolution of this Conference went to the Board.

The Chairman. Yes, but the Conference passed a resolution asking the Board to reconsider the ruling about street address items.

Governor Young. I think you are confused just a bit. Previous to the last Governors' Conference the Federal Reserve Board issued a letter which contained the ruling that was in this memorandum of Governor Fancher's.

Mr. Harrison. That was September, 1926.

Governor Young. We discussed that at the last Conference and I very frankly told the members here that it was utterly impossible for Minneapplis to take advantage of that or accomplish anything by it. At that Conference nine Governors felt that the Board had made a mistake inmaking that ruling, and a resolution was passed, not unanimously, which went to the Board along in November, and it was suggested to Governor Bailey and myself to go ahead and act --

The Chairman' Who suggested it?

Governor Young. A member of the Board, and the result was I went back and framed up something, sent it to the Federal Reserve Board and they approved it and I put it in.

The Chairman. The Board never acted upon the request of the Conferenoe to r eoonsider their action.

Governor Young. But they had an expression of opinion from this Conferenoe.

The Chairman. Well, it was a poor way to work together.

Mr. Harrison. As Secretary of the Conferenoe, and as directed by the Conference, I transmitted to the Board in a special letter the resolution passed on the subject of non-cash collections, the substance of which was a protest with regard to the option -- to make it optional with street addresses, and asking the Board to finally s ettle the whole question of non-cash collections once and for all by some uniform ruling. I, as Secretary of the Conference, have never received any acknowledgment or ruling with respect to that resolution of the Conference, and as an operating official of the reserve bank I never heard anything at all about the proposed procedure in Minneapolis until we got your letters saying that you were going to make it effective as of a certain

date. So that, as far as the Federal Reserve Board is concerned, we have never had any ruling or any advice from them that there would be such a ruling made in your case.

The Chairman. And no advance notice that would permit of any exchange of views with the Board.

Governor Young. Of course I had nothing to do with that.

The Chairman. I do not know about that. Knowing the sentiment of the men here about uniformity, this is an attack really upon a bulwark of the System, and I cannot escape that conclusion, because it was a direct arrangement with you which had the effect of defeating the action of the Conference without it being brought out at the Conference. The Conference certainly had a wish, by a vote of nine to three, to have a ruling reversed which the Board had made in order that we might have uniformity, something which was being destroyed by that ruling.

Governor Young. We had a committee appointed here in which there was a vote of four to one. This is not my idea. I got it from Governor Harding. It it was a suggestion which sounded to me like a good one.

The Chairman. There was never any report by the Committee. Mr. Hamlin got up and left, Governor Harding left, and you

and Fancher and I remained, and we had to go because we couldn't get any action.

Governor Harding. I wasn't here at the last Conference.

The Chairman. On the question of uniformity, you raised the question about the two days' time in New York. The analogy is not a good one for this reason: We have no difficulty in collecting checks in our district. Every bank in our District, whether a member or non-member, is on our par list. There isn't one exception. If this thing was put through you would destroy uniformity in the System. I think it is going to reach into the cash collection system, and the fact that it grew out of an arrangement which was worked up between the Board and the bank, at the suggestion of the Board, you say -- I will admit all that --

Governor Young (Interposing.) I am not going that far. I do not want to put anything over onto the Board. You know what I have worked for from five to six years, to get rid of the non-cash collections in one way or the other. I am not pushing all the responsibility over on the Federal Reserve Board. In fact I do not push any of it there. I simply quoted a conversation that occurred before the Committee,

which I think Governor Bailey will verify.

Governor Harding. But a charge based upon the amount of the draft is not a service charge. It is an exchange charge.

The Chairman. If we took that position in handling the open market operations, handling them independently, there wouldn't be a Federal Reserve System such as there is now. We have surrendered, other banks have surrendered their individual views in matters of equal importance with this because it was the desire of this Conference, and what rather hurts me about it is --

Governor Young. Am I being accused of not having fallen in line with the open market operations, and innumerable other things that have occurred in the System?

The Chairman. Not at all, but in this one very puzzling thing --

Governor Young. That is right; you said it -- puzzling.

The Chairman. Very puzzling, we all agree, but a question where uniformity in charging for items is an essential requirement of the System. Our whole position before the public, the member banks and among ourselves is certainly thrown into confusion which will extend very widely. Here, in the face of the desire of nine of the Reserve banks to

conduct this business in a certain way, the desire of one member bank to conduct it in another way, it looks as though it were going to force nine of the members of the Conference to surrender their convictions. That is the difficulty about the ruling.

Governor Harding. It seems that it affords the Federal Reserve Board a chance to function. They must act as a coordinating body, but it seems to me that they ought to lay down some pronouncement that will bring about uniformity in this matter.

Governor Wellborn. Didn't the Board send out a letter after our last conference, advising us that they were going to permit Minneapolis to try this experiment?

The Chairman. I have never seen such a letter.

Governor Wellborn. It seems to me as though I saw such a letter as that.

Governor Bailey. You and I might have gotten a letter, Governor Wellborn, because we submitted a proposition and they advised us not to put that in operation until Governor Young experimented with his.

The Chairman. Apparently only two banks were written to. Governor Wellborn and Governor Bailey were told not to go ahead.

with their plans because they wanted to give Minneapolis a six months' trial on its plan.

Governor Wellborn. That is the letter I refer to.

The Chairman. Mr. James told me that he wrote the letter.

Governor Wellborn. I want to say this, in regard to Governor Young's position. Of course he is fighting for what he believes is right and what he wants. So far as our bank is concerned, we want the same thing. You stated the reason very clearly a few minutes ago. We think there is one point you did not mention, and that is that we think the member banks in the reserve cities and branch cities are treated unfairly, and with discrimination, if they are not allowed to charge for handling collections and obtain the revenue from it, when other banks throughout the district are permitted to do so.

Governor Harding. Don't they get compensating advantages by securing other advantages from the Federal reserve banks in those cities?

Governor Wellborn. Those other advantages are just natural advantages that they have.

The Chairman. If we weigh the advantages outside of the geographical position of the member banks, we have quite a job on our hands.

Governor Wellborn. But I do not think it ought to be put upon the ground that because you are a majority of nine and we are a minority of three that we are disturbers of the peace, or anything of that kind.

Governor Harding. It seems to me it would be well to ask the Federal Reserve Board to go ahead and make a settlement of the whole thing.

The Chairman. For all the banks, not for the one bank.

Governor Calkins. In regard to the 9 to 3 proposition, can anyone recite another proposition in which a majority of nine has not prevailed in the deliberations of this Conference? I cannot think of any. A good deal of loose talk has been indulged in by us in regard to the uniformity in this, that and the other practice. A uniformity of practice in rega to d etails is of no consequence; but uniformity in principle is of vital importance to the system and unless it is maintained the system is going to be destroyed by that very lack of uniformity in principle. A percentage charge cannot be called a collection charge. It is not a collection charge. It is an exchange charge.

Governor Talley. How would you define a collection charg

Governor Calkins. A per item charge and perhaps a charge

that involved an addition to the per item charge for some responsibility assumed, or some service performed, but not based upon a percentage of the item handled.

Governor Bailey. Do you think it would be fair to have the same charge on ten dollars that you would on a hundred thousand dollars?

Governor Calkins. I said with perhaps some addition for the service performed, that is to say for the risk involved, if any, and for the labor involved, if any; but not a percentage. You may feel, I may feel, that a percentage charge is right and just, but it is an exchange charge and not a collection charge the minute you base it upon a percentage.

The Chairman. Would this be fair -- I do not offer it as my own view but just as a suggestion -- but would this be a fair position to take with the Federal Reserve Board, leaving Governor Young out of it: That all the Federal Reserve banks are entitled to a ruling in this matter which puts all the Federal Reserve Banks on identically the same basis?

Governor Calkins. We have taken that position.

The Chairman. Starting from that premise, then the Board, it seems to me, has to decide the question of policy and not the question of detail operation. That is to say first, shall

we handle non-cash collection items or not? They directed us to do so and that question was decided, unless they want to reverse themselves. Then if we are to handle them, shall a charge be made? If a charge is to be made shall it be a percentage charge or a service charge and is it to apply to all items or only to some items? Can Federal Reserve banks consent to the imposition of a service charge by their members which is only imposed upon items coming from outside the district as against the banks within their own districts, that being a free service? If the Federal Reserve Board would take the responsibility of saying in this instance, to meet this present situation, that they direct the reserve banks to agree to the imposition of a charge of a dollar and a half on all non-cash collection items, what is the result going to be? That is what they have done in a particular instance on items payable in a Federal Reserve City where the facilities for collection of them are better than they are in any other city?

Governor Calkins. If those items come from outside the District?

The Chairman. Yes. If the Federal Reserve Board will take the responsibility for making that a universal ruling

for all of the Reserve banks, it will result in the imposition of an ultimate charge of some millions of dollars a year certainly. How many I do not know. We get nothing out of it. We pass it on to the banks. In other words, for the first time in the history of the System we are setting up a system of charges of percentage on items which is to be paid to those particular banks which we, in one way or another, are able to favor in getting those charges. That is what it amounts to.

Governor Calkins. Governor Young has made the suggestion that a committee be appointed to observe the situation in Minneapolis. I am just wondering whether we could get anything out of that or not. I think myself that if the decision in this matter is postponed for another six months or another year that the damage done will be such as cannot be repaired in the system. It might be compared again to a break in the levee. You cannot repair a break in a levee after it has been running for six months or a year.

I am wondering if it would be possible for the Conference to pass a resolution appointing a committee to observe and report at the next Conference, with the agreement that the operation of the plan now in operation in Minneapolis

should be suspended during that time.

The Chairman. We cannot do that now without Governor Young's agreement.

Governor Wellborn. In asking the Board to make a ruling, I want to call the attention of this Conference to an official letter of the Federal Reserve Board of September 24, 1926, which I think is fundamental. It is constitutional, you might say. They state in this letter that the provisions of the Federal Reserve Act authorize do not require Federal reserve banks to handle non-cash items, and the inauguration of the function was not the result of an order by the Federal Reserve Board but rather a suggestion.

Governor Bailey. I want to read the plan prepared by Kansas City which, if put into operation would eliminate a good deal of this trouble at Minneapolis, I think:

"December 15, 1926.

"NON-CASH COLLECTIONS.

TO THE MEMBER BANKS OF DISTRICT No. 10:

"Effective January 1, 1927, the Federal Reserve Bank of Kansas City will limit the operation of its non-cash collection department to the handling of items drawn on or payable at banks (x), and will discontinue the handling

of items payable at street addresses, which necessitate either presentation or notification. The following conditions, effective January 1, 1927, should therefore be carefully observed:

Section 1. GENERAL PROVISIONS.

Character of Items Which May be Forwarded as Collections.

Member banks may forward to the Federal Reserve Bank of Kansas City for collection and credit, checks or drafts drawn on or payable at banks; certificates of deposit; coupons and bonds payable at banks; notes and acceptances payable at banks; orders on savings banks; checks previously protested; and other similar items drawn on or payable at banks. We will also handle for collection, coupons detached from bonds held in safekeeping by Federal Reserve Banks for their member banks, and sight or demand bill of lading drafts disconnted by Federal Reserve Banks for their members.

Items which will Not Hereafter be Handled.

The Federal Reserve Bank of Kansas City will not hereafter handle for collection, promissory notes; time, sight and demand drafts; creamery checks; city, county, school district and state warrants; or items of a similar nature; except in cases where any such items are drawn on or payable at banks.

"(Footnote to record page 242) (x) Whenever the word 'banks' is used in this letter, the word shall be held to mean incorporated banks or trust companies, or regularly organized commercial banking institutions receiving deposits subject to check.

The Chairman. As I understand it, you applied to the Federal Reserve Board to give you permission to do that?

Governor Bailey. I did not apply. I told them we were going to do it, thinking I already had the authority. Then they asked us to hold this up.

The Chairman. Suppose Governor Wellborn at the same time, under the previous ruling, had applied to the Board for authority to do this or had submitted a plan to make a service charge on all non-cash collection items; then suppose Governor Seay had informed the Board that he wanted to handle the thing in a way where he would not handle any of their them at street addresses, and where would the system be?

Governor Bailey. I know where our bank would be. If we could keep them in off the street, that is what we want to do. I think this is a very liberal compromise, in view of the fundamental position of the Federal Reserve Board. We were going to ask you gentlemen to do that. Let's have uniformity and let's get Minneapolis to do the same thing --

The Chai rman. I remember the compromise between the man and his wife as to whether they would buy a green or a yellow rug. The wife wanted a yellow rug so they compromised on a yellow rug. It doesn't look like a compromise to me.

Governor Wellborn. It is always a good plan to compromise on a close question --

Governor Talley. It doesn't seem to me to be a close question with a vote of nine to three.

Governor Wellborn. I say the fundamental proposition is a close question.

Governor Talley. I do not think it is very close.

Governor Seay. With reference to the fundamental proposition in the communication from the Federal Reserve Board, it was stated that the Federal Reserve banks had not been ordered to establish this system, I think. I think it was an order and Mr. Harrison can correct me about that.

The Chairman. Oh yes, it was a direction.

Governor Fancher. I wrote to the Federal Reserve Board and called their attention to their letter of 1917 and they said afterwards that they were misinformed on the point.

The Chairman. I want to bring out an absurdity about this thing which has not been mentioned, but which struck me right away as too ridiculous for words. That is, do you realize that this arrangement with Minneapolis does not meet any of the objections that have been filed with the Federal Reserve Board about the non-cash collection system -- not

any of them? As a matter of fact these objections had to do with handling any street address items through banks and with the Federal Reserve banks performing the service for nothing, at an enormous expense, because this volume of street address items was very heavy, and there is no compensation to the Federal Reserve Banks for the non-cash collections. I do not see the reasonableness of it.

Governor Fancher. They are charges that were established more than twenty years ago when the question of exchange, the expense of shipping currency and charging exchange was involved, which question does not prevail at present.

Governor McDougal. This plan of Mr. Bailey's would be in complete harmony, I think, with the Board's September letter, because it contained the option to continue or not to continue, but that does not cover the Minneapolis case.

The Chairman. How difficult it is going to make it for all the other Reserve banks in handling their non-cash collection items, when they find out that some banks do and some do not handle street address items.

Governor Norris. I would like to call attention to another difficulty that it seems to me would necessarily arise if the Minneapolis procedure is permitted to continue.

If that largesse or bonus is to be distributed to the member banks at Minneapolis, manifestly all the rest of us will have to distribute similar sums to the banks in New York, and in Philadelphia, and we will have something like $170,000 to distribute among our member banks in Philadelphia. Now on what basis are we going to distribute it, and how are we going to avoid the charge of favoritism?

The Chairman. What banks handle the items in Minneapolis, Governor Young?

Governor Young. All of the member banks in proportion to the reserve balance that they carry with us. I would like to correct one statement you made, if I may.

The Chairman. Please do. I did not mean to make an incorrect statement.

Governor Young. That Minneapolis had not corrected many things that w ere complained about --

The Chairman (Interposing:) Are you speaking from the standpoint of the Reserve banks or the member banks?

Governor Young. I am talking about the Reserve bank. You will remember in 1923, '24, '25, '26 and '27 my complaint was not made about charges but it was because of the liability that we were having under this. This has corrected that

liability, gotten rid of it, and we are through with it.

The Chairman. You have dumped all these items for the whole district onto your member banks?

Governor Young. Yes.

Mr. Strater. Not for the whole district?

Governor Young. No.

The Chairman. Well, how does it relieve you?

Governor Young. It relieves me of liability on the Twin Cities.

The Chairman. Has there ever been much liability to speak of?

Governor Young. Yes, when you take a million dollars' worth of grain drafts on the grain exchange, and have to take what you get, there is liability. You go down there for the cash or a certified check. If they give you a check in payment for it you have to go get the check cashed, and in the time taken to do that, the car of grain may be some distance away from there.

Governor Fancher. You are in the same position you would be in a commercial bank. Couldn't you get a certified check before delivering the documents?

Governor Young. No.

Governor Fancher. Why not?

Governor Young. It would raise a row with the grain men.

Governor Fancher. But you would only have one row with them.

Governor Young. The difficulty is if you send a collector out with one of those $100,000 drafts, send it to a dealer that you don't know anything about, he offers a check in payment and you refuse to take it and you tell him you want a certified check. The man has to go down to get a certified check and the dealer hasn't made any arrangements with the bank; the man has got to stand around there with his papers, and finally, some time after two o'clock in the afternoon, he will get a certified check. Now it is not my idea that the System should do that and do it for nothing.

Governor Fancher. But isn't that a very much magnified situation?

Governor Young. It is cheaper for the commercial bank to do it --

Governor Fancher. I think that situation is very much overdrawn. We all have drafts with documents attached every day and we have no trouble of that sort in our cities. We get certified checks.

The Chairman. If the Board should rule that we would not handle street address items would that satisfy you?

Governor Young. Absolutely not. The City National or Guaranty Trust or any of them could easily stamp on there "Payable at the Federal Reserve Bank", or "Payable at the Northwestern", or 'Payaable at any place they want to, and there isn't any way you can stop them --

Governor Bailey. If they stamped on it that they would have to pay in Federal exchange would you take them that way?

Governor Young. What?

Governor Bailey. Suppose the draft was payable at the Northwestern Bank, but with the understanding that when they paid they paid in Federal exchange? You wouldn't take the cashier's check?

Governor Young. I think we would go to the Northwestern National Bank and present that --

The Chairman (Interposing:) Do you get any drafts or securities attached from us, from the Federal Reserve Bank of New York?

Governor Young. I got one from the National City the other day , which wasn't a draft at all.

The Chairman. Have we ever sent a draft with securities

attached for our member banks —

Governor Young. Yes.

The Chairman. How long ago?

Governor Young. Right along.

The Chairman. But we are not taking those.

Governor Young. They come from the direct sending banks.

The Chairman. We haven't opened the door to having a member bank dump all their security collections on us.

Governor Young. It is rumored that Philadelphia has dumped them on you.

The Chairman. On New York?

Governor Young. I don't know about it.

The Chairman. Securities in the New York market, how do you collect them —

Governor Young (Interrupting:) They send the securities to us.

The Chairman. They may have to stop it.

Governor Young. That is all I want to do in Minneapolis.

The Chairman. That is a very different matter, Governor Young.

Mr. Strater. May I ask the risk involved in collecting a note on the Great Lakes Coal & Dock Company, payable at

the Midland National Bank & Trust Company, either for the Midland National Bank or for the Federal Reserve Bank?

Governor Young. No risk.

Mr. Strater. What is the justification for charging one-tenth of one per cent?

Governor Young. You are asking me what justification there is for the charge?

Mr. Strater. Yes.

Governor Young. I do not think there is any.

Mr. Strater. I do not either. If there is justification, real or fancied, what difference would therebe between making a charge on such a note and a charge on a check payable through the clearing house?

Governor Young. No difference in the world. Just a moment on that. I do not know how the Midland National Bank collects this Great Lakes Coal & Dock Company. You cannot charge a note in Minnesota, even if it is payable at a bank. We have to go out and collect it.

Mr. Strater. Do they actually make a practice of sending them to be collected or do they get the customer's authorization to charge their account?

Governor Young. I do not know.

Mr. Strater. That is the usual custom under those conditions.

Governor Fancher. It is reasonable to assume that this particular concern keeps an account with the Midland Bank & Trust Company.

Governor Young. I think it keeps six or seven accounts.

Governor Fancher. It is reasonable to assume, because they made it payable at that bank, that that was one of their depositing banks.

Governor Young. Yes.

Governor Talley. Mr. Chairman, we do a lot of talking down home. I do not do very much here, but if there is one thing I am clear on in my own mind, it is this one thing. In the first place I agree with the minority of three that the handling of these items is a nuisance. At the same time I have always assumed that the Federal Reserve Bank was expected to do some work somewhere along the line. I think there is a question of principle involved in this and in that respect I agree with Governor Young; but I do not go along with him as a matter of practice by single Federal reserve banks. I cannot go that far with him.

The principle involved is this: That you have exactly the same right or same authority to deliver non-cash collec-

tion items to a member bank in your own town as you do to send it to a member bank outside of the city. You have that right. To illustrate that clearly, if you have a member bank in your own city that is not a member of your clearing house, that member bank has the right to deposit checks on member banks in that same town with you. Under the present set up of t he non-cash collection system or usage the member bank in your owncity has the right to deposit cashier items with you on that city. That is a question of principle. But you cannot come here and have the representatives of twelve Federal Reserve banks sit around the table and not agree on uniformity of practice in the carrying out of the principle and get by with it, to save your life. You cannot do it. I have been anxious to reconcile the proposition, but I have been an advocate of turning over the non-cash collection items to your member banks in your own city and in your branch cities, and have them make a charge. You cannot help it. Whether it is a collection charge or whether it is an exchange charge, I think that is splitting hairs, because you cannot help it. All you can do is to account to the endorser of the item for the proceeds that you get.

The Chairman: If you have one bank that is going to do

this service for a charge of ten cents an item and another one that is going to charge one-tenth of one per cent, there is a great responsibility in imposing the larger charge on any member bank ---

Governor Talley. But that becomes a question for your local banks to work out among themselves.

The Chairman. A question of competition?

Governor Talley. A question of competition between your member banks.

The Chairman. Then you go a step further, and the member banks will fix this thing up amongst themselves, and the first thing you know they will be doing their own collecting.

Governor Talley. But you must bear in mind the fact that charges have been made by the banks outside of Federal Reserve and branch cities ever since this thing started and you are only dealing here with banks in probably 35 cities in which this question arises of turning items over to the member banks in your own city and in your branch cities -- this is simply to develop the point that there isn't anything in the contention of the member banks in the Reserve cities and branch cities, that it is an expense to the Federal reserve bank to handle these things and therefore it should

be abandoned, but that they were really trying to create an issue out of their desire to charge exchange. I think what the Minneapolis Bank has done up to this time has thoroughly demonstrated that. I do not think there is any question about it. That was the principal reason that we advocated that it not be done, because when Governor Young's letter came down to us I said to our folks down there "Well, we will just go along and we won't do that now because our banks in Dallas and Houston and El Paso, where our branches are, are not raising that question, and just as soon as they raise the question we will turn the items over to them and then we will see what the reaction is on them in reference to having to pay collection charges on every other Federal reserve city point and branch point. That is the whole story as far as I see it.

The Chairman. Gentlemen, we have to provide for two things. One is the completion of the report by the openmarket committee, which I would like to submit to this meeting, and subsequently it must be taken up with the Federal Reserve Board. I think we have got to have a special meeting with the Federal Reserve Board on this topic, where the Board can hear the views of the men here. Do you agree to that, Governor

Young?

Governor Young. Yes, sir.

The Chairman. If the Conference is willing to defer meeting again this afternoon for a little while, the open market committee could lunch together and discuss what sort of report it will make. Then take that up in a very short meeting after lunch. Then the question is when do we want to meet with the Board for discussion of this item that we have been discussing this morning? Without objection it will be understood that we will further discuss this matter with the Board.

Mr. Harrison. and I have prepared a memorandum of the way we feel in New York about the situation which bears upon the transactions of the open market committee. That memorandum is unusual and required special consideration. We would like to have the Governors who are not on the open market committee read this memorandum during the lunch hour, if possible, treating it as very confidential because it is a very confidential memorandum, and bring that memorandum back and return it to Mr. Harrison, because it is only a draft.

(Whereupon, at 1 o'clock p.m., the Conference recessed until 2:30 o'clock p.m. of the same day.)