

The Papers of Charles Hamlin (mss24661)

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Hamlin, Charles S., Scrap Book – Volume 218, FRBoard Members

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Scrap Book - Volume 218
FRBoard Members

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BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date August 5, 1941

To The Files

Subject: _____

From Mr. Coe

MPC.

After correspondence with Mrs. Hamlin (see letters of May 25 and June 4, 1941) the items attached hereto and listed below, because of their possible confidential character, were taken from Volume 218 of Mr. Hamlin's scrap book and placed in the Board's files:

VOLUME 218

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Memo to Governor Meyer from Mr. Smead re Federal Reserve Branch Banks.

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Deficiencies in Reserves of Member Banks During the Quarter Ended June 30, 1931.

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Memo to Gov. Strong from L.R. Mason re interpretation of S. 14 of the F.R. Act.

Pages 30 & 40

Memo to Mr. Hamlin from Mr. Van Fossen re Gold Earmarkings.

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Earnings & Expenses of F.R. Banks, September 1931.

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Memo to Mr. Hamlin from Mr. Smead - Confidential - "Bills payable in foreign currencies bought by the F.R. Banks".

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Memo to Dr. Miller from Mr. Wyatt - Power of F.R. Board to regulate purchase of Government securities by F.R. Banks under Section 14(b).

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Summary of Condition of F.R. Banks on Friday, October 9, 1931.
(Marked Confidential)

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Data re Purchase of Sterling Exchange - Notes on Board meetings and correspondence.

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Credits Extended by F.R. Banks to European Central Banks (Confidential)

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Memo to Board from Mr. Wyatt re the Board's power over foreign transactions of F.R. Banks.

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Memo to Governor Meyer from Mr. Goldenweiser on money in circulation.

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Memo to Governor Meyer from Mr. Goldenweiser re postal savings.

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MR. HAMLIN

To: Governor Meyer

Date: September 23, 1931.

From: Mr. Smead

SUBJECT: Federal reserve branch banks

In accordance with the suggestion contained in our memorandum of April 4, on "Federal reserve branch banks," the Board on April 22, requested each Federal reserve bank to furnish it with the name, location and loans and investments of each member bank which is not within overnight mail time from a Federal reserve bank or one of its branches and a set of maps showing by colored lines the boundaries of the territory in each district which is within overnight mail time from the Federal reserve bank and from each branch, if any.

From the data submitted by the reserve banks we have prepared the attached table showing the number of member bank points not within over-night mail time of a Federal reserve bank office, the population of such places and the number and total loans and investments of member banks located therein. From this table it will be noted that there are 695 member bank points in the United States not within over-night mail time of a Federal reserve bank or branch. There are 785 member banks located in these places with total loans and investments of \$403,000,000. This represents 9.9 per cent of the total number and about 1.2 per cent of the aggregate loans and investments of all member banks.

Of the member bank points not within over-night mail time of a Federal reserve bank or branch, only 13 are cities with a population in excess of 10,000. These cities, in the order of their size, are listed on the following page:

Qb



BLACK DOTS INDICATE
MEMBER BANK POINTS NOT WITHIN
OVER-NIGHT MAIL TIME FROM A
FEDERAL RESERVE BANK OR BRANCH

	Population	Member banks	
		Number	Loans and investments
Butte, Mont.	39,532	3	\$28,379,000
Great Falls, Mont.	28,822	2	9,672,000
Albuquerque, N. M.	26,570	2	8,168,000
Johnson City, Tenn.	25,080	2	4,466,000
Klamath Falls, Ore.	16,093	2	3,885,000
Marquette, Mich.	14,789	2	8,043,000
Anaconda, Mont.	12,494	2	4,554,000
Bristol, Tenn.	12,005	1	2,834,000
Kingsport, Tenn.	11,914	1	1,273,000
Trinidad, Colo.	11,732	2	5,066,000
Santa Fe, N. M.	11,176	1	3,042,000
Norfolk, Neb.	10,717	1	818,000
Grand Junction, Colo.	10,247	1	1,505,000
13 cities	231,171	22	81,705,000

The two largest cities, Butte and Great Falls, Mont., are each less than 100 miles and about three hours' train time from the Helena branch but the train schedules are such that neither of the cities have over-night mail service from the branch. Both cities, however, are sufficiently close to the branch at Helena to enable member banks to obtain emergency service by automobile within about three hours' time.

Of the 695 member bank points not within over-night mail time of a Federal reserve bank or branch about 95 per cent are towns of less than 5,000 population. The following table classifies these places according to population.

Member bank points not within overnight mail time.

Towns with population of -	Number of towns
Less than 500	164
500 - 1,000	211
1,000 - 1,500	125
1,500 - 2,500	91
2,500 - 5,000	68
5,000 - 10,000	23
10,000 - 25,000	9
25,000 - 40,000	4
Total	695

With regard to the maps furnished by the Federal reserve banks in accordance with the request contained in the Board's letter, it may be stated that because of poor train service many towns in close proximity to a Federal reserve city do not have overnight mail service from the Federal reserve bank, while other towns a considerable distance away do have such service. This causes the lines on the maps to intersect at so many points that they are of little practical use. We have, however, used such maps in preparing a map of the entire United States on which we have located by means of dots each of the 695 member bank points in the United States which are not within overnight mail time of a Federal reserve bank or branch in their respective districts. A photostat copy of this map is attached hereto and the map itself, of somewhat larger size, has been placed in the Board's General Files.

Two of the Federal reserve banks, Atlanta and Kansas City, submitted a list of all member bank points within their districts and indicated for each point whether or not it was within overnight mail time of more than one Federal reserve office. It is interesting to note that in the case of these two districts a large number of places are within overnight mail time of more than one office of the Federal reserve bank as will be seen from the following table:

	<u>Atlanta District</u>	<u>Kansas City District</u>
Number of member bank points - total	270	625
Within overnight mail time of only one office	77	107
" " " " " two offices	73	245
" " " " " three offices	56	100
" " " " " four "	34	11
" " " " " five "	8	-
Not within overnight time of any office	22	162

B-500

MEMBER BANKS NOT WITHIN OVERNIGHT MAIL TIME OF THE FEDERAL RESERVE BANK OR OF A FEDERAL RESERVE BRANCH BANK
IN THE SAME DISTRICT

(Figures as of March 25, 1931)

B-500

	Not within over-night mail time:				All member banks on March 25, 1931		Largest city not within overnight mail time		
	Member bank banking points		Member banks		Number	Total loans & invest-ments	Name	Popula-tion	Loans and invest-ments of member banks
	Number	Aggre-gate popula.	Number	Total loans and investments					
United States:	695	1,140,333	785	\$402,832,000	7,928	\$34,728,565,000	Butte, Mont.	39,532	\$28,379,000
<u>Boston district:</u>									
Maine	2	2,979	2	1,301,000	54	144,147,000	Fort Kent	2,245	727,000
New Hampshire	1	1,872	2	633,000	56	72,607,000	Colebrook	1,872	633,000
Vermont	1	1,837	1	1,090,000	45	65,471,000	Island Pond	1,837	1,090,000
Massachusetts	4	10,160	4	3,860,000	172	1,655,234,000	Provincetown	3,740	1,105,000
Rhode Island	-	-	-	-	14	323,738,000	-	-	-
Connecticut	-	-	-	-	52	239,717,000	-	-	-
<u>New York district:</u>									
New York	18	16,384	19	14,121,000	650	10,663,042,000	Greenport	3,062	1,829,000
New Jersey	1	400	1	361,000	246	1,169,170,000	Hope	400	361,000
Connecticut	-	-	-	-	12	47,716,000	-	-	-
<u>Philadelphia district:</u>									
Pennsylvania	1	1,379	1	453,000	620	2,469,540,000	Mt. Jewett	1,379	453,000
New Jersey	-	-	-	-	111	262,510,000	-	-	-
Delaware	-	-	-	-	20	80,697,000	-	-	-
<u>Cleveland district:</u>									
Ohio	7	4,450	7	1,452,000	357	1,849,098,000	West Union	1,094	428,000
Pennsylvania	9	9,802	9	4,207,000	293	1,465,535,000	Lyndora	3,057	768,000
Kentucky	5	14,171	6	5,097,000	72	86,895,000	Jenkins	8,465	549,000
West Virginia	-	-	-	-	13	32,612,000	-	-	-
<u>Richmond district:</u>									
Maryland	1	408	1	350,000	78	291,113,000	Friendsville	408	350,000
Dist. of Col.	-	-	-	-	12	133,213,000	-	-	-
Virginia	10	11,417	10	4,257,000	165	353,259,000	Big Stone Gap	3,908	507,000
West Virginia	9	12,313	10	4,054,000	111	151,298,000	Richwood	5,720	434,000
North Carolina	4	9,038	4	2,146,000	63	150,378,000	Edenton	3,563	841,000
South Carolina	2	2,721	2	988,000	37	65,613,000	Saluda	1,381	556,000

MEMBER BANKS NOT WITHIN OVERNIGHT MAIL TIME OF THE FEDERAL RESERVE BANK OR OF A FEDERAL RESERVE BRANCH BANK
IN THE SAME DISTRICT (Cont'd)
(Figures as of March 25, 1931)

B-500

	Not within over-night mail time:				All member banks on March 25, 1931		Largest city not within overnight mail time		
	Member bank banking points		Member banks		Number	Total loans & invest-ments	Name	Popula-tion	Loans and invest-ments of member banks
	Number	Aggre-gate popula.	Number	Total loans and investments					
<u>Atlanta district:</u>									
Georgia	1	916	1	\$125,000	97	\$231,375,000	Lincolnton	916	\$125,000
Florida	-	-	-	-	56	142,268,000	-	-	-
Alabama	7	17,342	9	5,599,000	102	180,665,000	Andalusia	5,154	1,790,000
Mississippi	-	-	-	-	18	41,691,000	-	-	-
Tennessee	12	73,655	16	14,999,000	79	169,558,000	Johnson City	25,080	4,466,000
Louisiana	2	4,537	2	1,098,000	24	208,546,000	De Ridder	3,747	898,000
<u>Chicago district:</u>									
Michigan	4	9,381	5	5,131,000	214	1,318,365,000	Petoskey	5,740	2,706,000
Indiana	2	2,939	2	571,000	152	322,191,000	Covington	2,008	285,000
Illinois	1	508	1	291,000	328	2,395,998,000	Grant Park	508	291,000
Wisconsin	-	-	-	-	117	441,545,000	-	-	-
Iowa	1	812	1	277,000	251	306,126,000	Newell	812	277,000
<u>St. Louis district:</u>									
Missouri	9	12,046	11	3,372,000	137	616,647,000	Bolivar	2,256	228,000
Arkansas	11	17,930	11	3,248,000	72	84,300,000	Batesville	4,484	532,000
Kentucky	12	18,415	13	4,769,000	58	164,530,000	Providence	4,742	343,000
Indiana	12	14,089	13	3,859,000	52	59,965,000	Jasonville	3,536	598,000
Illinois	18	25,901	21	10,516,000	157	141,267,000	Metropolis	5,573	2,137,000
Tennessee	1	1,129	1	201,000	18	70,272,000	Savannah	1,129	201,000
Mississippi	1	2,018	1	660,000	11	10,016,000	Pontotoc	2,018	660,000
<u>Minneapolis district:</u>									
Minnesota	37	41,001	43	14,306,000	258	513,923,000	Ely	6,156	763,000
Michigan	10	36,605	11	18,124,000	46	67,496,000	Marquette	14,789	8,043,000
North Dakota	57	47,823	58	18,609,000	104	63,527,000	Williston	5,106	957,000
South Dakota	42	41,992	44	18,719,000	98	62,721,000	Madison	4,289	153,000
Montana	46	136,578	53	62,130,000	77	95,116,000	Butte	39,532	28,379,000
Wisconsin	10	11,672	10	4,248,000	49	50,985,000	River Falls	2,363	623,000

MEMBER BANKS NOT WITHIN OVERNIGHT MAIL TIME OF THE FEDERAL RESERVE BANK OR OF A FEDERAL RESERVE BRANCH BANK
IN THE SAME DISTRICT (Cont'd)
(Figures as of March 25, 1931) B-500

	Not within over-night mail time:				All member banks on March 25, 1931		Largest city not within overnight mail time		
	Member bank banking points		Member banks		Number	Total loans & invest-ments	Name	Popula-tion	Loans and in-ments of mem-banks
	Number	Aggre-gate popula.	Number	Total loans and investments					
<u>Kansas City district:</u>									
Kansas	25	18,135	25	\$5,268,000	246	\$169,558,000	Lincoln	1,732	\$308,000
Nebraska	55	68,147	68	29,953,000	170	192,986,000	Norfolk	10,717	818,000
Wyoming	17	51,899	23	19,039,000	29	31,502,000	Laramie	8,609	3,428,000
Colorado	27	66,831	33	19,618,000	116	208,636,000	Trinidad	11,732	5,066,000
New Mexico	8	54,747	9	16,224,000	9	16,226,000	Albuquerque	26,570	8,168,000
Oklahoma	30	36,655	36	7,852,000	252	279,014,000	Anadarko	5,036	526,000
Missouri	-	-	-	-	39	206,262,000	-	-	-
<u>Dallas district:</u>									
Texas	71	77,632	80	19,497,000	620	768,115,000	Rusk	3,859	187,000
New Mexico	5	9,960	5	2,307,000	19	9,967,000	Silver City	3,519	1,245,000
Oklahoma	2	978	2	341,000	12	4,283,000	Bennington	492	164,000
Louisiana	1	2,909	1	1,313,000	11	33,966,000	Homer	2,909	1,313,000
Arizona	-	-	-	-	4	9,736,000	-	-	-
<u>San Francisco district:</u>									
California	16	17,236	16	8,290,000	207	2,612,356,000	Westwood	4,356	795,000
Nevada	3	6,237	4	2,853,000	10	15,997,000	Ely	3,045	1,568,000
Oregon	10	24,895	14	7,384,000	115	191,075,000	Klamath Falls	16,093	3,885,000
Washington	11	9,657	13	4,951,000	138	300,052,000	Dayton	2,528	1,435,000
Idaho	24	37,277	28	11,621,000	55	44,122,000	Twin Falls	8,787	3,035,000
Utah	16	34,168	19	9,438,000	38	79,085,000	Price	4,084	2,090,000
Arizona	3	6,350	3	1,161,000	10	22,876,000	Winslow	3,917	606,000

(Confidential)

DEFICIENCIES IN RESERVES OF MEMBER BANKS DURING THE QUARTER ENDED JUNE 30, 1931

B-506

Federal Reserve District	Total member banks June 30	Number of banks penalized on account of deficiencies in reserves				Number of banks subject to progressive penalties	Number of banks subject to maximum penalty	Average daily deficiencies on which penalties were assessed			
		Total	In F. R. bank and branch cities	In other reserve cities	Country banks			Total	F. R. bank and branch cities	Other reserve cities	Country banks
(In thousands of dollars)											
<u>BANKS THAT APPLY PROGRESSIVE RATES</u>											
Philadelphia	744	95	6	-	89	9	-	121	3	-	118
Cleveland	719	94	12	3	79	14	1	275	47	43	185
Richmond	458	124	10	2	112	18	4	167	10	2	155
Atlanta	371	108	7	2	99	20	10	312	52	1	259
Kansas City	854	114	9	8	97	13	3	72	5	13	54
San Francisco	559	109	13	-	96	11	1	112	18	-	94
Total, 6 districts	3,705	644	57	15	572	90	19	1,059	135	59	865
<u>F.R. BANKS THAT DO NOT APPLY PROGRESSIVE RATES</u>											
Boston	387	55	6	-	49	4	-	80	8	-	72
New York	902	184	23	-	161	3	-	210	56	-	154
Chicago	1,009	207	18	9	180	30	7	404	67	25	312
St. Louis	506	143	29	-	114	22	4	156	42	-	114
Minneapolis	615	113	3	-	110	15	2	110	14	-	96
Dallas	658	95	11	-	84	18	3	247	8	-	239
Total, 6 districts	4,077	797	90	9	698	92	16	1,207	195	25	987
Total, all districts											
2nd quarter, 1931	7,782	1,441	147	24	1,270	182	35	2,266	330	84	1,852
1st quarter, 1931	7,924	1,514	144	29	1,341	217	50	2,893	346	76	2,471
2nd quarter, 1930	8,315	1,801	209	36	1,556	203	44	2,825	570	134	2,121

FEDERAL RESERVE BOARD

DIVISION OF BANK OPERATIONS

SEPTEMBER 26, 1931.

VOLUME 218

PAGE 10

To Governor Strong

From L. R. Mason

January 5, 1925.

I understand you desire an interpretation of § 14 of the Federal Reserve Act with reference to the power of this bank to cooperate with the Bank of England in restoring Great Britain to a gold basis by advancing to the Bank of England unsecured credits or credits secured by collateral other than gold or bills:

Section 14 of the Act provides, among other things, that every Federal Reserve Bank shall have power:

- (a) "with the consent or upon the order and direction of the Federal Reserve Board and under regulations to be prescribed by said Board" (the provision just quoted was made by the amendment of June 21, 1917) "to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries," etc., "for the purpose of purchasing, selling and collecting bills of exchange, and to buy and sell, with or without its endorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and with the consent of the Federal Reserve Board to open and maintain banking accounts for such foreign correspondents or agencies." (The underscored provision is part of the amendment of September 7, 1916.)

The report of Mr. Glass's committee to the House in 1913 stated the purpose of Section 14 as originally enacted, to be as follows:

"The final power to open and maintain banking accounts in foreign countries for the purpose of dealing in exchange and of buying foreign bills is necessary in order to enable a Reserve Bank to exercise its full power in controlling gold movements and in facilitating payments and collections abroad."

The purport of the statements of other high authorities as to the purpose of Section 14 is that the power given by the section to purchase bills should be exercised in order to check adverse movements of exchange and postpone the moment when gold shipments would have to be made or discount rates increased.

The language of the Act is designed to give broad powers to accomplish the purpose.

That there was present in the minds of the legislators the prospect that a Reserve Bank might have to rely solely upon the credit of a foreign bank is evidenced by the provision for opening and maintaining accounts in foreign countries. Moreover, it is well known among bankers that the establishment of these mutual accounts, customarily implies the granting of credit accommodations. In the absence of evidence to the contrary, Congress may be presumed to have taken this situation into account.

On August 27, 1919, the Federal Reserve Board ruled that the New York bank could buy silver for the Netherlands bank under subsection (e) of Section 14, since the Reserve Bank was in effect a correspondent of the Netherlands Bank, and could do for that bank whatever a correspondent might do.

I think the power to make a loan to the Bank of England unsecured or secured by collateral other than gold or bills is inherent in the provisions of Section 14, and may be exercised under the circumstances narrated by you, and the bank may properly make a contract to furnish the credit on certain terms within a given period.

The whole question, however, is for the Federal Reserve Board, and I think probably a better record might be made if the Board should initiate any extraordinary steps to determine the legal effect of Section 14 in the premises.

(Signed) L. R. Mason.

B19

Office Correspondence

FEDERAL RESERVE
BOARDDate October 6, 1931To Mr. HamlinSubject: Gold earmarkingsFrom Mr. Van Fossen *W*

2-8495

In accordance with your request, we are handing you herewith a memorandum on the subject of gold earmarkings by the Federal reserve banks.

The first gold earmarking transaction occurred on March 21, 1916 as stated in a footnote to table No. 28 in the Board's 1930 Annual Report, which shows the amount of gold earmarked for foreign correspondents held by the Federal reserve banks on the last day of each month to the end of 1930.

In addition to the United States gold coin and gold bullion earmarked for foreign account as indicated in the above mentioned table, the Federal reserve banks have at various times earmarked United States gold certificates, and in at least one instance Federal reserve notes, for domestic banks. These earmarkings are understood to have been on behalf of Canadian banks. The first earmarking of metallic gold for a domestic bank is understood to have taken place on June 3 of the current year. A similar transaction was effected on June 15 and a number of other like transactions in the period from September 21 to October 5. The Federal Reserve Bank of New York was not advised whether the transactions in June were for foreign account but it subsequently developed that this was the case. Of earmarkings for domestic banks amounting to approximately \$5,800,000 since September 21, \$3,300,000 have been released from earmark, \$3,000,000 for export to Holland according to advices received by the Federal Reserve Bank of New York. The remainder of \$2,466,000, including \$170,000 earmarked on October 5, is referred to in the New York daily letter of that date as now being held in safekeeping for two city banks.

All gold earmarked for domestic banks has been gold withdrawn from gold reserves of the Federal Reserve Bank of New York and presumably charged to the reserve account of the New York member bank in whose name the gold was earmarked. It is understood that it is not always possible to ascertain definitely whether the New York member banks are acting for a foreign correspondent in these transactions but as stated to you over the telephone there does not seem to be any particular reason for a member bank to have gold earmarked for its own account since the member bank could obtain gold if and when desired and thereby obviate having its reserve account charged for the gold in advance of actual need for it. In any instance if the member bank is not acting on behalf of a foreign correspondent or other customer the earmarked gold becomes a part of the cash holdings of the member bank.

B30

Office Correspondence

FEDERAL RESERVE
BOARDDate October 7, 1931 *See BK*To Mr. HamlinSubject: Gold earmarkingsFrom Mr. Van Fossen *W*

2-8495

With further reference to the subject of gold earmarked by the Federal reserve bank for New York City banks, in accordance with your suggestion, we requested the New York Bank on the telephone to furnish us additional information in regard to the character and purpose of such earmarkings. Mr. Gilbert advises us that all of the earmarkings for New York City banks were earmarkings of gold intended for shipment abroad and that the member bank procures the gold in accordance with instructions and awaits definite advice as to the vessel on which the gold is to be shipped and the date of sailing. The Federal reserve bank thus merely holds the gold in custody for the member bank pending shipment and delivers the gold directly to the shipping agent.

When the Federal reserve bank earmarks gold for a member bank, the gold is charged to the member bank's reserve account and while the Federal reserve bank has not received any definite information as to the manner in which the member bank carries the gold on its books prior to shipment, it is obvious that the gold does not belong to the member bank but to its foreign correspondent and it is assumed that the amount of the gold so held is carried merely as a memorandum item on the books of the member bank. This, of course, confirms our previous conclusion that member banks do not in fact have gold earmarked for their own account even though so far as the records of the Federal reserve bank are concerned the transaction does appear as an earmarking of gold for a New York City member bank.

EARNINGS AND EXPENSES OF FEDERAL RESERVE BANKS, SEPTEMBER 1931

Federal Reserve Bank	Month of					September		1931		January - September 1931		
	Earnings from					Current expenses		Current net earnings		Current net earnings		Available for reserves, surplus and franchise tax*
	Dis-counted bills	Pur-chased bills	U. S. secur-ities	Other sources	Total	Exclusive of cost of F.R.Currency	Total	Amount	Ratio to paid-in capital	Amount	Ratio to paid-in capital	
									Per cent		Per cent	
Boston	\$13,218	\$46,454	\$53,559	\$5,807	\$119,038	\$145,960	\$150,123	-\$31,085	--	-\$416,911	--	-\$952,198
New York	63,286	226,492	252,439	27,471	569,688	521,816	539,064	30,624	.6	-755,635	--	-2,870,663
Philadelphia	79,062	52,731	65,632	4,292	201,717	149,151	158,261	43,456	3.2	-42,887	--	-735,374
Cleveland	75,006	58,559	69,811	16,116	219,492	203,563	238,617	-19,125	--	-201,652	--	-856,576
Richmond	55,655	13,189	31,400	3,671	103,915	114,162	115,082	-11,167	--	-296,027	--	-558,273
Atlanta	61,860	13,441	26,907	9,123	111,331	94,056	99,007	12,324	2.9	-166,222	--	-404,478
Chicago	49,375	86,185	143,310	38,931	317,801	273,394	277,449	40,352	2.5	-173,112	--	-1,056,578
St. Louis	24,959	11,028	40,682	2,351	79,020	101,704	102,686	-23,666	--	-259,192	--	-436,949
Minneapolis	11,934	7,421	42,628	11,198	73,181	72,184	72,992	189	.08	-41,701	--	-102,455
Kansas City	33,606	18,468	35,089	23,087	110,250	130,093	131,850	-21,600	--	-215,282	--	-408,146
Dallas	34,398	16,699	39,848	5,251	96,196	96,806	99,986	-3,790	--	-116,706	--	1,860
San Francisco	78,976	39,904	77,351	6,955	203,186	177,358	196,713	6,473	.7	-321,470	--	-847,175
TOTAL												
Sept. 1931	581,335	590,571	878,656	154,253	2,204,815	2,080,247	2,181,830	22,985	.2			
Aug. 1931	470,998	446,986	907,818	181,935	2,007,737	2,107,296	2,176,928	-169,191	--			
Sept. 1930	530,193	310,956	1,348,594	138,102	2,327,845	2,161,949	2,273,074	54,771	.4			
Jan.-Sept. 1931	4,183,588	2,441,234	9,203,843	1,418,782	17,247,447	19,090,461	20,254,244	-3,006,797	--	-3,006,797	--	-9,227,005
1930	8,589,439	5,078,352	13,197,887	1,665,232	28,530,910	19,690,280	21,398,845	7,132,065	5.6	7,132,065	5.6	46,336

FEDERAL RESERVE BOARD
DIVISION OF BANK OPERATIONS
OCTOBER 12, 1931.

*After making allowance for accrued dividends and current debits and credits to profit and loss account but not for profit or loss on sales of U. S. securities held in special investment account.

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Office Correspondence

FEDERAL RESERVE
BOARDDate October 9, 1931To Mr. HamlinSubject: Bills payable in foreign currenciesFrom Mr. Smeadbought by the Federal reserve banks

2-8495

CONFIDENTIAL

In response to your telephone request of yesterday I beg to advise that the Federal reserve banks now hold about \$48,782,000 of bills payable in foreign currencies as follows:

Bills payable in -

Reichsmarks	\$25,200,000
Sterling	15,700,000
Francs	838,000
Pengoes (Hungary)	4,051,000
Schillings (Austria)	993,000
Guilders (Holland)	1,000,000
Zloty (Poland)	1,000,000

The Guilders and Zlotys were bought under the credit established with the B. I. S. All other bills were bought under credits established for the central banks of the respective countries, except the Franc bills which were bought out of the balance maintained by the Federal Reserve Bank of New York with the Bank of France. All of the bills bought under these credits are repayable in dollars or in gold at the mint par at the time the agreements were made. The agreements either expressly state that none of the bills will be renewed or that all of the bills purchased will be eligible for rediscount by Federal reserve banks, which is taken to mean that none of them will be renewal bills.

LW 1211

(OPINION PREPARED BY MR. FREEMAN FOR MR. WYATT'S
SIGNATURE BUT NEVER FILED WITH BOARD.)

June 15, 1923.

TO: Dr. Miller

SUBJECT: Power of F.R. Board to
regulate purchase of Government
securities by Federal reserve
banks under Section 14(b).

FROM: Mr. Wyatt- General Counsel.

You have requested me to render an opinion as to the right of the Board to regulate the purchase of Government securities by F.R. Banks. I considered this question briefly in a memorandum addressed to you under date of Mch. 19, in which I expressed the opinion that the Board has power to regulate such purchases of securities, that this power to regulate includes the power to prescribe a reasonable limitation upon the amount of such securities which might be purchased by F.R. bank, either acting individually or in the aggregate, and in the exercise of this power to limit to a percentage of the total assets of a F.R. bank the amount of such securities which it might purchase.

After a careful review of this question, including a study of the arguments advanced by certain of the Governors at the recent conference of Governors, I see no reason to change the opinion expressed in my memorandum of Mch. 19. I shall, however, endeavor to go into the subject in more detail and to elaborate the reasons which have led me to this conclusion.

Sec. 14 of the F.R. Act provides in part, "Every F.R. Bank shall have power: * * (b) To buy and sell, at home or abroad, bonds and notes of the United States, and bills, notes, revenue bonds and warrants * * issued by any State, county, district, political subdivision, or municipality in the continental United States, ** such purchases to be made in accordance with rules and regulations prescribed by the F.R. Board."

To my mind the final phrase of this provision, "such purchases to be made in accordance with rules and regulations prescribed by the F.R.Bd.," is conclusive of the question. It is to be noted that this phrase qualifies equally the purchase of bonds and notes of the U.S. and the purchase of municipal bonds and warrants of the various kinds described, so that if the Board has power to regulate the purchase of municipal warrants, it has precisely the same power to regulate the purchase of Government securities. I believe there can be no question as to this. The Board has always assumed and exercised its power to regulate the purchase of municipal warrants. This regulation is embodied in the Board's Regulation E, Series of 1920, which prescribes the conditions and limitations under which F.R. Banks may purchase municipal warrants. This regulation, among other things, prescribes several specific limitations on the amounts of such warrants which F.R. Banks may purchase. In Par. II, it provides that F.R. Banks shall not purchase an amount

1-

in excess of 25% of the total amount of warrants sold by any one municipality; in Par. III, it provides that, except with the Bd.'s approval, no F.R. Bank shall invest in municipal warrants of all kinds an amount in excess of 10% of its member bank deposits; In Par. IV, it provides that, except with the Bd.'s approval, no F.R. bank shall invest in the warrants of any one municipality in an amount in excess of 5, 3 or 1% of its member bank deposits, depending upon the size of the issuing municipality; In Par. VII, it provides that a F.R. Bk. may purchase from its member banks municipal warrants endorsed by the member bank in an amt. not to exceed 10% of the capital and surplus of the selling member bank. This regulation, in substantially its present form, has been in force since Jan. 1915, and so far as I am aware, the power of the Board to issue and enforce this regulation has never been questioned. It is a well-established principle of statutory construction affirmed in numerous decisions of the U.S. Sup. Ct., that a rule or regulation of a Govt. Dept., Board, or Bureau, purporting to be issued pursuant to law, and which has been enforced and followed without question for some time, will be presumed to be a lawful exercise of power and will not be set aside except for cogent reasons or when clearly erroneous. The fact, therefore, that Reg. E. has been in effect for over eight years and has not been questioned is a strong indication that the Board has power to regulate the purchase of municipal warrants by F.R. Banks and that this power is lawfully exercised in the regulatory provisions. Conceding the Board's power to regulate the purchase of municipal warrants by F.R. Banks and recognizing that the power to regulate the purchase by F.R. Banks of Govt. securities is contained in precisely the same language as the power to regulate the purchase of warrants, the conclusion is irresistible that the Board has similar power to regulate the purchase by F.R. Banks of Government securities.

One of the arguments advanced at the Governors' Conference sought to distinguish the power to regulate the purchase of Govt. securities and the power to regulate the purchase of municipal warrants on the ground that the purchase of Govt. securities was an established every day function of F.R. Banks, with regard to the propriety of which there could be no question, while the purchase of municipal warrants was a matter which should properly be brought into operation only on infrequent occasions and which was subject to many diverse considerations, because of the varying nature of warrants issued by different municipalities. It may be conceded that there is an obvious distinction between the purchase of Govt. securities and the purchase of municipal warrants and this distinction may properly affect the inherent nature of the regulations which should be issued; no doubt certain regulations prescribing conditions and limitations under which municipal warrants might be purchased by F.R. Banks would not be applicable to the purchase of Government securities and for this reason might conceivably not be considered a reasonable exercise of the Board's power to regulate. These differences between Government securities and municipal warrants, however, are material only as bearing upon the terms of the regulations which may be issued and do not affect at all the question of the Board's power to make regulations. As to this, Government securities and municipal warrants stand on exactly the same footing and the Board has precisely the same power to regulate the purchase of Govt. securities as it has

to regulate the purchase of municipal warrants, although, as noted above, the regulations themselves need not, and probably should not, be identical.

A number of other arguments advanced at the Governors' Conference which sought to deny the Board's power to regulate the purchase by F.R. Banks of Government securities were based upon the language used in other provisions of the F. R. Act. For example, -

1. The provision of Section 13 which provides that the discount and rediscount and purchase and sale by F. R. Banks of bills receivable, bills of exchange and acceptances "shall be subject to such restrictions, limitations and regulations as may be imposed by the F. R. Board."

2. The provision of Section 13(a) which provides that the F. R. Board may by regulation limit to a percentage of the assets of a F. R. Bank the amounts of six and nine months' paper which such bank may rediscount.

3. The provision of Section 13 which provides that the acquisition by F. R. Banks of dollar exchange acceptances shall be "in such amounts and subject to such regulations, restrictions and limitations as may be prescribed by the F. R. Board", with the proviso that member banks shall not make dollar exchange acceptances in excess of certain amounts.

4. The provision in Section 13 which authorizes the F. R. Board by regulation to permit a member bank to accept bills up to 100% of its capital and surplus, provided that domestic acceptance must be limited to 50% of its capital and surplus.

The gist of these arguments, as I understand it, is that the F.R. Board has no power to make a regulation as to the purchase of Government securities which shall amount to a limitation upon the amount of such securities which F. R. banks may purchase, but that such regulations as the Board is authorized to make are confined to mere matters of minor procedure; in other words, that the power to regulate does not include the power to limit. This argument is based on the slightly different language used in other sections of the F. R. Act which specifically authorize the Board to impose limitations on dealings in other classes of business and which in certain matters prescribe the limitations which the Board shall fix. It is, therefore, contended that in failing expressly to authorize the Board to limit, as well as regulate, open market purchases, Congress intended to deny the Board this power. I believe this argument is entirely beside the point. Congress undoubtedly did use slightly different language in different sections of the Act but, as indicated above, these sections deal with entirely different classes of business, are governed by different considerations and have no reasonable relation to the open market purchase of Government securities and municipal warrants, which is expressly and completely provided for in Section 14(b). To my mind, the proper construction of Section 14(b) must furnish a complete answer to the power of the Board to regulate the purchase by F. R. banks of Government securities. I do not consider it material that Congress failed to give the Board specific power to "limit" the purchase of Government securities by F. R. Banks; in my opinion this was unnecessary, because the power to regulate includes the power to impose reasonable limitations.

I believe that important consideration should be given to the proper meaning of the phrase "rules and regulations". I have studied the decided cases somewhat hastily in this connection and have found no helpful definition of this composite phrase. Apparently the two words "rules" and "regulations" are practically synonymous. The verb "to regulate", and the noun "regulation" have been passed on in a number of cases, some of which throw much light on the proper meaning of these expressions. Webster's New International Dictionary defines the verb "regulate" as follows:

"To adjust or control by rule, method, or established mode; to direct by rule or restriction; to subject to governing principles or laws."

and the noun "regulation" as follows:

"A rule or order prescribed for management or government; a regulating principle; a governing direction, precept, or law; as, the regulations of a society or a school."

This definition is at the bottom of most of the definitions contained in the authorities. Some of the cases, however, elaborate the meaning of the verb "regulate" and hold that in various circumstances it means restrain, limit, control, fix, or govern. It may be conceded that it does not mean prohibit and many cases have affirmed the principle that a power to regulate does not include the power absolutely to prohibit. On the other hand, it has been frequently held that a regulation necessarily implies a partial prohibition, in that the term "regulation" involves the element of restraint or limitation. See for example, City of Tacoma v. Keisel, 124 Pac. 137, (Wash.) It is thus seen that in general the power to regulate necessarily includes the power to restrict, to control, to limit to some extent; the whole subject of regulation involves the existence of a right which is not to be prohibited, but is to be curbed or governed; in other words, limited.

It seems clear to me that the express power of the Board to regulate the purchase of Government securities by F. R. Banks must include the power to place reasonable limitations upon the amounts of such securities which F. R. Banks may purchase. If the power to regulate does not include the power to fix reasonable limitations, I am unable to understand what it can mean, since Congress undoubtedly did not intend to confer upon the F. R. Board merely a perfunctory authority to advise or supervise F. R. Banks in their open market purchases of Government securities. It may be conceded that such limitations as the Board may impose upon these purchases must be reasonable, as indeed the exercise of all powers conferred upon the Federal Reserve Board must be reasonable, but so long as regulations governing the purchase of Government securities are reasonable, I think it is clear that the Board has power to impose them.

It is futile, in my opinion, to attempt to make a distinction between regulation and limitation, and to say that though the Board has power to regulate, it has no power to limit. The Board's power to regulate the purchase of Government securities by Federal reserve banks can not be

doubted; whether or not, in the exercise of that power, it can impose limitations upon the amounts of such securities which Federal reserve banks can purchase is purely a question of fact as to whether such a regulation is a reasonable exercise of power. Such a regulation, if invalid, would be invalid, not because it imposed a limitation, but because the limitation imposed was unreasonable in the light of the spirit and purpose of Section 14(b), and consequently the regulation was unreasonable. If, however, the regulation prescribed certain limitations which were reasonable, it would not transcend the Board's express power to prescribe rules and regulations merely because it fixed such limitations.

Respectfully,

General Counsel.

EWB
OMC

B-13

CONFIDENTIAL

B-206a

NOT FOR PUBLICATION

SUMMARY OF CONDITION OF FEDERAL RESERVE BANKS ON FRIDAY, OCTOBER 9, 1931
 COMPARED WITH PRECEDING DAY AND DAILY AVERAGE OF PRECEDING MONTH
 (Amounts in millions of dollars)

Federal Reserve Bank	CASH RESERVES			F.R. NOTE CIRCULATION			MEMBER BANK RESERVE DEPOSITS			GOVERNMENT DEPOSITS			EXCESS RESERVES	ESTIMATED "FREE GOLD"
	Oct. 9	Change from Preceding day	Average for Sept.	Oct. 9	Change from Preceding day	Average for Sept.	Oct. 9	Change from Preceding day	Average for Sept.	Oct. 9	Change from Preceding day	Average for Sept.	Oct. 9	Oct. 9
Boston	207	- 6	- 25	148	+ 1	+ 7	158	- 3	+ 15	3	+ 2	+ 1	88	56
New York	967	-37	-225	454	+ 6	+59	941	-21	- 75	5	-	- 2	409	409
Philadelphia	259	- 7	+ 10	228	+ 5	+67	134	- 1	- 6	1	- 2	- 1	115	53
Cleveland	306	- 4	- 38	282	+ 2	+35	161	- 5	- 18	3	- 1	-	129	53
Richmond	76	-	- 14	90	+ 1	+15	58	-	- 1	5	-	+ 2	16	6
Atlanta	103	+ 1	- 24	117	+ 1	+ 4	53	-	- 1	4	+ 2	+ 2	34	6
Chicago	623	- 6	- 50	486	+ 2	+40	314	- 6	- 14	5	+ 5	+ 1	309	127
St. Louis	93	+ 5	- 16	79	-	+ 3	67	+ 1	+ 1	4	+ 2	+ 2	34	15
Minneapolis	67	-	- 9	61	-	+ 6	47	-	- 1	3	+ 1	+ 2	24	5
Kansas City	85	+ 1	- 16	72	-	+ 3	81	+ 2	+ 1	4	+ 2	+ 3	25	19
Dallas	59	+ 2	+ 7	50	- 1	+19	56	+ 1	+ 4	3	- 2	+ 1	16	16
San Francisco	246	- 4	- 63	230	-	+13	161	- 3	- 9	3	+ 3	+ 1	90	47
SYSTEM	3,090	-56	-465	2,296	+16	+271	2,231	-36	-102	42	+11	+11	1,290	898
Oct. 9, 1930	3,126	-	+ 19	1,375	+10	+ 9	2,416	+ 8	+ 19	26	- 7	- 2	1,713	1,109

DIVISION OF BANK OPERATIONS
 FEDERAL RESERVE BOARD

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PURCHASE OF STERLING EXCHANGE.

July 24, 1931. 11:04 a.m.

Mr. James to the Executive Committee:

Mr. James reported to the Executive Committee that Dr. Miller, then at the Federal Reserve Bank of New York, had just called him up in behalf of himself and Governor Meyer, stating that it was reported that the Federal Reserve Bank of New York is ready to purchase \$25,000,000 of bills to aid the Bank of England, and that the approval of the Federal Reserve Board is desired relative to the transaction.

Dr. Miller said that both he and Governor Meyer were in accord with the proposal, and would approve it if they were here. They suggested that the Executive Committee of the Board take action accordingly.

Mr. James reported that he suggested that the New York Bank be asked to wire immediately the outline and as much detail of the proposition as may be possible, together with a formal request for the Board's approval of the purchase. Mr. James said that Dr. Miller said he would do this, and that he (Mr. James) is now awaiting receipt of this wire before calling a meeting of the Executive Committee.

July 24, 1931.

Federal Reserve Bank of New York to Federal Reserve Board:

States that at a meeting of the directors yesterday, the general world credit situation was discussed, particularly with reference to the recent weakness in sterling exchange, and the large losses of gold by the Bank of England. This weakness has been disturbing, in view of the fact that sterling is the pivotal European exchange. In the light of all the circumstances, our directors voted to authorize the officers to purchase, as and if it appeared necessary and desirable, up to \$25,000,000 of sterling, with the understanding that the funds would be employed by the Bank of England in the purchase of bills. Yesterday we purchased 85,000 pounds, and we expect to acquire further amounts today. We shall keep the Board informed of the progress of this operation. Participation will be offered to the other Federal reserve banks.

July 24, 1931.

Mr. McClelland to Deputy Governor Crane:

Acknowledges receipt of telegram, dated July 24th, quoting same. The Federal Reserve Board notes that in the light of all the circumstances your directors voted to authorize the officers to purchase, as and if it appeared necessary and desirable, up to \$25,000,000 of sterling, with the understanding that the funds will be employed by the Bank of England in the purchase of bills.

The Board also notes that participation in the purchases made will be offered to the other Federal reserve banks, and that the Board will be kept advised of the progress of the operation.

July 24, 1931.

Mr. Crane to the Federal Reserve Board:

We acquired 85,000 pounds yesterday, and 275,000 pounds today. No further purchases were necessary today, as sterling rate advanced rapidly from 4.84-5/8 this morning to 4.85-3/8 this afternoon, and closed with firm tone.

July 25, 1931.

Mr. Crane to Federal Reserve Board:

Made no further purchases today. Sterling opened this morning at 4.85-5/8 and closed firm at 4.85³/₄, which is above approximate gold point of 4.85-3/8.

July 27, 1931.

Mr. Crane to Federal Reserve Board:

Made no further purchases of sterling today, as the exchange rate has been above gold point all day. The rate was 4.85¹/₂ this morning, and closed this afternoon at 4.85-11/16 to 3/4. The market was quiet and firm.

		red and used	clean silver	found in used	hydrate	Remarks	
1924. Apr 20	expected. Not in	10.5	10.5	found on table	6. 3-2-25 4.5 4-16-25	6. 3-31-25 3. 11-30-25	
1925. Apr 20	Bk is broken	200	200	In gold	Aug 14. 27	-	Not used
1926. Oct 25	Not Bk is broken	41	10	Purch of Bills	Oct 25. 27	-	Not used
1927. Oct 18	Bk is broken	20	5.2 +	Purch of Bills	Oct 13. 28	Oct 13. 29	" "
1927. Dec 20	Bk is broken	75	15	Purch of Bills	Dec 22. 28	-	" "
1928 Nov 16	Not Bk is Remained	25	4.5	Purch of Bills	Feb 7. 30	Feb 7. 31	" "
1929 June 24	Not Bk is Hanging	10.	1.	Purch of Bills	Oct 1 29	Oct 31. 29	
1931 June 18		16.	2.				
1931. July 8			3				
1931. Aug 30	Not Bk is written	14 14	1. 1.4	Purch of Bills	Aug 30. 31		
1931. Jan 26	Remained	100	25	Purch of Bills	July 16. 31	Aug 6 31	
1927. Dec 13.			10	trouble by change			Not used.
1929 Aug 22	M. is big	25 sturdy case	25 sturdy case		Remained Nov 17 29		
1930 Oct 14- Dec 4			16 35 sturdy case		Not used Nov 10- Dec 20 31		
1931 July 20		25 sturdy case	1.7 sturdy		Oct 30. 31		
1931 July 30		12.5 sturdy case					

	CZECHOSLOVAK NATIONAL BANK	BANK OF ENGLAND	NATIONAL BANK OF BELGIUM	BANK OF POLAND	BANK OF ITALY	NATIONAL BANK OF ROUMANIA	NATIONAL BANK OF HUNGARY	BANK OF AUSTRIA	GERMAN REICHSBANK	BANK FOR INTER- SETTLEMENTS
Date of Agreement										
1.	9/1/24	4/20/25	1	10/18/27	12/20/27.	11/16/28	6/29/29	5/30/31	6/26/31	<i>approved July 20</i>
2.			10/25/26				6/18/31			
3.							7/8/31			
Date Effective (12/2/24.	\$ 6,000,000		1							
1.	(1/16/25	5/14/25		10/18/27	12/22/27	2/7/29	7/1/29	5/30/31	6/26/31	
2.	4,500,000		10/25/26				6/19/31			
3.										
Total Amount of Credit										
1.	\$ 10,500,000	\$300,000,000	-	\$ 20,000,000	\$ 75,000,000*	\$ 25,000,000	\$ 10,000,000	\$ 14,000,000 *	\$ 100,000,000	\$ 10,000,000 #
2.			\$ 41,000,000 *				16,000,000	14,000,000 *		
3.										
Our Share of Credit										
1.	10,500,000	200,000,000	-	5,250,000	15,000,000	4,500,000	2,000,000	1,083,000	25,000,000	10,000,000
2.			10,000,000				2,000,000	1,400,000		
3.							3,000,000			
Kind of Credit										
1.	Loans On Gold	In Gold	Purchase of bills	Purchase of bills	Purchase of bills	Purchase of bills	Purchase of bills	Purchase of bills	Purchase of bills	Purchase of bills
2.			" " "				" " "	" " "		
3.							" " "			
Expiration date										
1.	6,000,000 3/2/25. 4,500,000 4/16/25.	5/14/27.	-	10/13/28.	12/22/28.	2/7/30	10/1/29	8/30/31.	7/16/31.	
2.			10/25/27.				90 days			
3.							" "			
Renewals										
1.	6,000,000 8/31/25 3,000,000 11/30/25	none	-	To 10/13/29.	-	To 2/7/31.	To 12/31/29.	-	To 8/6/31.	
2.			none				-	-		
3.							-			
Amount availed of										
1.	\$ 10,500,000	-	-	-	-	-	5,000,000	14,000,000 *	100,000,000	
2.							10,000,000			
3.										
Our Share										
1.	10,500,000	-	-	-	-	-	1,000,000	1,083,000	25,000,000	
2.							2,000,000			
3.							3,000,000			

On October 13, 1927 the Federal Reserve Bank of New York, without objection by the Federal Reserve Board, cabled the Netherlands Bank that the New York Bank would be willing to buy guilder exchange up to \$10,000,000 to relieve the then existing strain on guilders. No purchases were ever made, the Netherlands Bank having reported that it had the matter in hand.

On August 22, 1929, the Board informed the New York bank that it would not object to the purchase by it of up to \$25,000,000 of Sterling. Shortly thereafter £ 3,300,000 of Sterling bills, something over \$16,000,000, were purchased and held until November, 1929, when they were repurchased by the Bank of England.

Between October 14 and December 4, 1930, the Federal Reserve Bank of New York purchased approximately \$35,000,000 of Sterling bills, which holdings were liquidated between February 10 and March 20, 1931.

On July 23, 1931 the New York directors authorized the purchase of \$25,000,000 of Sterling bills and on July 23 and 24 approximately \$1,700,000 were purchased.

On July 30, the directors authorized the officers, subject to approval of the Federal Reserve Board, to arrange with the Bank of England, for a period of not exceeding 3 months, for the purchase of not in excess of the equivalent of \$125,000,000 of prime commercial bills.

1. On November 25, 1925 the Board approved the purchase of bills up to \$10,000,000, and on March 13, 1926, up to \$15,000,000, from the National Bank of Belgium, during which period negotiations were being carried on for a credit to the National Bank of Belgium. On May 15, 1926, the Governor of the Federal Reserve Bank of New York advised that the proposed credit would not be consummated.

To be deposited on demand with the Bank for International Settlements and invested, as may be determined and arranged from time to time, in prime commercial two-name paper guaranteed by the Bank for International Settlements.

* Approximate.

October 20, 1927.

To: The Federal Reserve Board,
From: Mr. Wyatt- General Counsel.

Subject: The Board's power over foreign
transactions of Federal Reserve Banks.

The Board has requested an opinion with respect to what regulations, limitations and restrictions it is authorized to prescribe as to foreign or international transactions of Federal reserve banks, and as to its general authority over such transactions. I understand that the Board desires to have the following points covered in this opinion:

(1) Whether the Board has power to regulate, limit, or restrict transactions involving the opening of accounts, the appointment of correspondents, or the establishment of agencies in foreign countries;

(2) Whether the Board has power to regulate, limit or restrict dealings in bills of exchange and bankers' acceptances between Federal reserve banks and foreign central banks;

(3) Whether the Board has power to regulate, limit, or restrict dealings in gold between Federal reserve banks and foreign central banks; and

(4) Whether the Federal reserve banks may lawfully charge a commission or fee in connection with such foreign transactions.

CONCLUSIONS.

After careful consideration of these questions, I have reached the following conclusions:

(1) Under the specific terms of section 14(e) of the Federal Reserve Act, no Federal reserve bank may lawfully open or main-

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tain accounts, appoint correspondents, or establish agencies in foreign countries without first obtaining the consent of the Federal Reserve Board; and the opening and maintenance of such accounts, the appointment of such correspondents, the establishment of such agencies and the conduct through such correspondents or agencies of "any transaction" authorized by section 14 of the Federal Reserve Act for or on behalf of other Federal reserve banks is expressly made subject to such rules and regulations as the Federal Reserve Board may prescribe. In addition, the Board has the power to order or direct Federal reserve banks to open and maintain accounts, appoint correspondents and establish agencies in foreign countries.

(2) By virtue of specific provisions of the Federal Reserve Act, the Federal Reserve Board is authorized and empowered to prescribe regulations, restrictions and limitations governing dealings in bills of exchange between Federal reserve banks and foreign central banks.

(3) By virtue of its right to exercise general supervision over Federal reserve banks, and by virtue of certain other powers specifically granted in the Federal Reserve Act, the Federal Reserve Board is authorized to regulate, limit or restrict important dealings in gold involving large amounts between Federal reserve banks and foreign central banks under section 14(a) of the Federal Reserve Act.

(4) Whenever the Federal reserve banks enter into any lawful transaction involving the extension of credit to, or the performance of any service for, a foreign central bank, they may lawfully charge a reasonable commission or fee for the extension of such credit or the rendition of such services.

DISCUSSION.

The only one of these questions which presents any difficulty is the question whether the Board has the power to regulate, limit or restrict dealings in gold between Federal reserve banks and foreign central banks. I shall, therefore, discuss the other questions first and take up this more difficult question last.

FOREIGN ACCOUNTS, CORRESPONDENTS AND AGENCIES.

The authority for Federal reserve banks to open and maintain accounts, appoint correspondents, and establish agencies in foreign countries is conferred by the following language of Section 14:

"Every Federal reserve bank shall have power:

"(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Federal Reserve Board and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Federal Reserve Board, to open and maintain banking accounts for such foreign correspondents or agencies. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Federal Reserve Board, any other Federal reserve bank may, with the consent and approval of the Federal Reserve Board, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board."

From a mere reading of this language it is obvious that the Federal Reserve Board is given full control of all transactions conducted thereunder. No Federal reserve bank may open or maintain accounts, appoint correspondents, or establish agencies in foreign countries except with the consent and subject to the regulations of the Federal Reserve Board; and any Federal reserve bank must open and maintain accounts, appoint correspondents, or establish agencies in foreign countries if ordered or directed to do so by the Federal Reserve Board. The opening and maintaining of such accounts, the appointment of such correspondents, and the establishment of such agencies is expressly made subject to "regulations to be prescribed by said board." No Federal reserve bank may open and maintain banking accounts through such foreign correspondents or agencies without the consent of the Federal Reserve Board. Other Federal reserve banks may participate in such transactions only with the consent and approval of the Federal Reserve Board. And all transactions through such correspondents or agencies in which other Federal reserve banks participate must be conducted "under rules and regulations to be prescribed by the Board."

This gives the Board the fullest possible measure of control, and it is important to note that the rules and regulations which may be prescribed by the Board governing transactions in which other of the Federal reserve banks participate pertain to all transactions authorized by any part of Section 14, and is not limited to transactions under subdivision (e).

DEALINGS IN BILLS OF EXCHANGE AND ACCEPTANCES.

The power of the Federal reserve banks to deal on the open market in bills of exchange and bankers' acceptances is conferred by the

first paragraph of section 14, which reads as follows:

"Sec. 14. Any Federal reserve bank may, under rules and regulations prescribed by the Federal Reserve Board, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for rediscount, with or without the indorsement of a member bank."

It is obvious that all transactions conducted under authority of this paragraph are expressly made subject to "rules and regulations prescribed by the Federal Reserve Board."

Further and more complete authority to control such transactions is conferred upon the Federal Reserve Board by the following paragraph of section 13:

"The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board."

It has been suggested that this paragraph pertains only to domestic transactions and gives the Board no power over transactions in foreign countries; but, the broad language used by Congress is not subject to any such restricted interpretation. It will be noted that it applies not only to the discount and rediscount but also to the purchase and sale by any Federal reserve banks of any bills receivable and of domestic and foreign bills of exchange and of acceptances authorized by this Act. It is not limited in terms to domestic transactions but is couched in the broadest possible language and is obviously intended to include all purchases and sales by any Federal reserve bank of any bills receivable, domestic and foreign bills of exchange, or acceptances authorized by the Federal Reserve Act.

It has been suggested that it was intended to apply only to transactions under section 13 and does not apply to dealings under section 14. A glance at the legislative history of this provision, however, shows that it could not possibly have been intended to apply only to section 13. As contained in the original Federal Reserve Act, this provision applied only to rediscounts but it was amended by the Act of September 7, 1916, so as to apply also to purchases and sales. At that time section 13 did not authorize Federal reserve banks to purchase and sell bills receivable, bills of exchange or bankers' acceptances but dealt with discounts and rediscounts and the only authority for the purchase and sale of bills of exchange and acceptances by Federal reserve banks was contained in section 14. Even at this late date, the only authority in section 13 to purchase and sell bills of exchange is the authority added by the Agricultural Credits Act of March 4, 1923, to purchase and sell bills of exchange payable at sight or on demand which are drawn to finance the domestic shipment of nonperishable readily marketable staple agricultural products.

It is obvious, therefore, that the authority conferred upon the Federal Reserve Board by the above quoted provision of section 13 is intended to apply to the purchase and sale of bills of exchange and bankers' acceptances by Federal reserve banks at home or abroad under section 14.

In my opinion, therefore, the specific provisions of the Federal Reserve Act authorize and empower the Federal Reserve Board to prescribe regulations, restrictions, and limitations covering dealings in bills of exchange and bankers' acceptances between Federal reserve banks and foreign central banks.

RIGHT OF FEDERAL RESERVE BANKS TO MAKE A REASONABLE
CHARGE IN CONNECTION WITH FOREIGN TRANSACTIONS.

Assuming that Federal reserve banks have power to engage in transactions whereby they sell or lend gold to foreign banks, purchase bills for the account of foreign banks or extend credit in any way to foreign banks, have the Federal reserve banks the right to charge a reasonable commission or fee for so doing?

In my opinion it is an incidental power of Federal reserve banks to make a reasonable charge for any service lawfully rendered by them, unless such charge is prohibited by statute or is contrary to public policy. There is no statute prohibiting the making of charges by Federal reserve banks in connection with dealings in gold or bills of exchange with foreign central banks, nor is there anything in the Federal Reserve Act to indicate that such a charge should be considered contrary to public policy. Assuming that the Federal reserve banks have power to engage in these foreign transactions, I am of the opinion, therefore, that they are legally authorized to make a reasonable charge for the services which they render in that connection.

GOLD TRANSACTIONS.

Section 14(a) authorizes and empowers the Federal reserve banks:

"(a) To deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold;"

This section does not expressly authorize the Federal Reserve Board to regulate, limit or restrict the exercise of the powers conferred thereby; but I am of the opinion that such authority is to be found else-

where in the Act.

I am not familiar with the details of the arrangements between the Federal Reserve Bank of New York and the various central banks of foreign countries; but it is my understanding that, whenever the Federal Reserve Banks have undertaken to enter into transactions with foreign central banks involving the purchase and sale of bills of exchange or dealings in gold, the Federal Reserve Bank of New York has first entered into mutual arrangements with such central banks whereby each bank appoints the other its correspondent or agent, and that the transactions which take place under these arrangements are conducted by the Federal Reserve Bank of New York on behalf of all Federal Reserve Banks on a pro rata basis. Where this is done there can be no doubt of the Board's power to prescribe rules and regulations governing all such transactions which are authorized by any part of Section 14; because the last sentence of Section 14(e) provides that:

"Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Federal Reserve Board, any other Federal reserve bank may, with the consent and approval of the Federal Reserve Board, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board."

It has been suggested that the words "any transactions" as used here refer only to the purchasing, selling and collecting of bills of exchange under authority of subdivision (e) of Section 14; but, in my opinion, no such restricted interpretation can properly be given to these words. The words "any transaction authorized by this section"

are very broad in their scope and clearly include every transaction authorized by any part of Section 14, including the power granted by Subdivision (a) to deal in gold coin and bullion at home or abroad. In my opinion, therefore, this provision of subdivision (e) of Section 14 specifically authorizes the Board to prescribe rules and regulations governing any and all transactions in gold between a Federal reserve bank and a foreign central bank which has been appointed as the agent or correspondent of such Federal reserve bank, if other Federal reserve banks participate in such transactions.

Independently of the power conferred by section 14(e), however, I am further of the opinion that the Federal Reserve Board is authorized to regulate, limit or restrict international gold transactions of the Federal reserve banks, even when such transactions are not conducted through correspondents or agencies opened or established pursuant to section 14(e). This power in my opinion is included in the power conferred by section 11(j) "to exercise general supervision over said Federal reserve banks" and the power conferred by Section 11(i) to "perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said Board effectively to perform the same.

In view of the great importance of this question, I shall discuss at length the nature and extent of the Board's power of general supervision, the legislative history of the open market powers of the Federal reserve banks, the respective functions of the Federal reserve banks and the Federal Reserve Board in the Federal Reserve System and the relation of international gold transactions to other

transactions over which the Board has been given specific powers. Before entering upon such a lengthy discussion, however, I shall state briefly my reasons for the above conclusion.

1. It has long been recognized that banking is a business affected with the public interest and that banks are subject to regulation under the police power for the protection of the general welfare of the people.

2. Because of their very nature and because of the far-reaching effects of their policies and transactions on the general welfare of the people, this is especially true of Federal reserve banks.

3. Federal reserve banks are instrumentalities of the Federal government created for public purposes and are at all times and in all respects subject to the paramount authority of the Federal government.

4. The Federal Reserve Board is an arm of the Federal government created for the purpose of administering the Federal Reserve Act and exercising general supervision over the Federal reserve banks, to the end that they may function in a manner best calculated to carry out the purposes of the Federal Reserve Act, to serve the public policy of the United States, and to benefit the people of the United States.

5. The Board's general power of supervision includes the power to see that the Federal reserve banks preserve and protect the banking reserves of the country with which they are entrusted, that they do nothing which may endanger the solvency or soundness of their currency, that they carry out faithfully the purposes of the Federal Reserve Act and that they comply in all respects with both the letter and the spirit of the law. This power carries with it the power to

require the Federal reserve banks to cease doing anything which is ultra-vires or which might defeat the purposes of the Federal Reserve Act or which might be detrimental to the public interest. Moreover, this power is to be construed liberally so as to enable the Board effectively to safeguard the great public interests confided to it.

6. From an examination of the Committee reports and legislative debates on the Federal Reserve Act it is perfectly clear that the power of carrying on the regular routine everyday business of the Federal reserve banks and the power of determining local policies was entrusted to their respective board of directors, but the Federal Reserve Board was created as "a general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

7. To this end, the Board was given power, among other things, to review and determine the rates of discount to be fixed by each Federal reserve bank from time to time, to regulate the open market transactions of the Federal reserve banks, to exercise general supervision over the Federal reserve banks, and to make all rules and regulations necessary to enable the Board to perform the duties, functions or services specified in the Federal Reserve Act.

8. The power to purchase and sell bills of exchange and bankers' acceptances in the open market was conferred upon the Federal reserve banks in order to enable them to make their rediscount rates effective and to protect their gold reserves, but this power was subjected to

regulation by the Federal Reserve Board in order that the Board might have some control over the reserve positions of the banks, the rediscount rates, and general credit conditions throughout the country.

9. For the same reason, the Board was given a great measure of control over the other open market operations of the Federal reserve banks, over their power to appoint correspondents, open accounts and establish agencies abroad, and over the transactions which might be conducted through such foreign correspondents and agencies.

10. The effectiveness of the powers thus conferred upon the Board would be seriously impaired and the Board's ability to exercise some control over the rediscount rates, open market operations and foreign transactions of the Federal reserve banks with a view to protecting the general credit situation and overseeing the "broader banking functions" affecting the country as a whole might be rendered nugatory if the Federal reserve banks could enter into transactions with foreign banks involving the purchase and sale, lending, borrowing and earmarking of gold, thereby moving great quantities of gold into or out of the country, without being subject to any regulation or check by the Federal Reserve Board.

11. Any statute must be construed as a whole and in such a way as to carry out the intent of the legislature. The intent of the legislature must be obtained by reading the act as a whole and not by construing isolated provisions of the same without any reference to their relation to the other provisions of the act or the effect of such construction upon other provisions of the act.

12. To construe the Board's powers "to exercise general supervision over the Federal reserve banks" and "to perform the duties,

functions or services specified in this act and to make all rules and regulations necessary to enable said Board effectively to perform the same" strictly and in such a way as not to include the power to exercise some control over international gold transactions, would clearly defeat the broad purposes of the Federal Reserve Act and greatly impair the Board's function as a "general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

13. Dealings in gold between the Federal reserve banks and foreign central banks are transactions of importance to the entire Federal Reserve System and to the public interests of the United States as a whole. Normally large amounts are involved in these dealings. Frequently in such transactions the funds of the Federal reserve banks are invested in or represented by assets located in foreign countries. This use of large amounts of the funds of the Federal Reserve System might cause a serious restriction upon the amount of funds available for use in this country and harmful results upon the Federal Reserve System or upon the business interests of this country might ensue. It could seriously affect the gold reserves of the country and the effectiveness of the rediscount rate.

14. Under these circumstances, the question whether and to what extent Federal reserve banks should engage in transactions of this kind is an important question of policy to the Federal Reserve System as a whole. The practical responsibility of such transactions is one

which in the last analysis, must rest upon the Federal Reserve Board. If the Federal Reserve Board's power of general supervision over Federal reserve banks is to have any practical effect or is to be given any substantial meaning, it must be considered to extend to and include the regulation or restriction of such important activities of Federal reserve banks as these international dealings in gold, which may impair the effectiveness of the rediscount rate and the open market transactions over which the Board is expressly given a large measure of control.

I am of the opinion, therefore, that by virtue of its right to exercise general supervision over Federal reserve banks the Federal Reserve Board is empowered and authorized to restrict or regulate important dealings in gold involving substantial amounts between Federal reserve banks and foreign central banks under section 14(a) of the Federal Reserve Act and that accordingly the Federal Reserve Board may, if it so desires, require Federal reserve banks to obtain its approval before entering into such transactions.

FURTHER DISCUSSION AND CITATION OF AUTHORITIES.

The above is only a summary of the reasons for my conclusions regarding the Board's power to exercise supervision and control over international gold transactions. In view of the vast importance of this subject, I have made a very lengthy and complete study and feel that I should submit below for future reference the results of that study and the citations of such authorities as I have found.

GENERAL SUPERVISORY POWER.

I have made a careful and thorough study of the Board's general supervisory power and of the legal authorities regarding the general supervisory or visitatorial powers in general. I submit the following discussion of that subject for the Board's further information.

It is customary in American law to vest in some board, commission, or officer, the power to exercise general supervision over certain types of corporations such as common carriers, insurance companies, and banks, which are affected with a public interest. Furthermore, under American law all corporations are chartered by the Government and have only such powers as are expressly granted in their charters or in the laws under which they are incorporated and such incidental powers as are necessary to the exercise of the powers expressly granted. It is well settled that by implication they are forbidden to exercise any other powers. The State, therefore, is interested in any attempt by a corporation to exceed its corporate powers and it is well settled that the State is the one to complain of any ultra vires acts of a corporation and is the only one which can institute quo warranto proceedings to compel a corporation to cease performing ultra vires acts. The duties of boards, commissions or officers charged with general supervision over corporations affected with a public interest, therefore, are primarily to see that such corporations do not exceed their lawful powers and that they carry out the purposes of their organization in such a way as to benefit rather than injure the public, and to prevent or check any abuses of any character.

This power, in its general nature and purpose is quite similar to, if not the same as, the common law power of visitation. A discussion of the authorities on the subject of visitatorial powers, therefore, may throw some light on the extent of the Board's duties and powers in the premises.

The visitors of eleemosynary and ecclesiastical corporations at common law, however, frequently performed all the functions and possessed all the powers which are now divided between the directors of banks and the governmental authorities having supervision over them; and it is im-

portant to keep this in mind while reading the authorities quoted below:

Bouvier's Law Dictionary. (p. 3404) discusses this subject as follows:

"Visitation. The act of examining into the affairs of a corporation.

"The power of visitation is applicable only to ecclesiastical and eleemosynary corporations. 1 Bla. Com. 480. The visitation of civil corporations is by the government itself, through the medium of the courts of justice. See 2 Kent, 240. In the United States, the legislature is the visitor of all corporations founded by it for public purposes; Dartmouth College v. Woodward, 4 Wheat. (U.S.) 518 4 L. Ed. 629.

* * * * *

"All eleemosynary corporations who are to receive the charity of the founder have visitors if they are ecclesiastical corporations; and if a particular visitor is not provided by the founder, then the Ordinary of the place is the visitor; if they are lay corporations, the founder and his heirs are perpetual visitors; 5 Mod. 404. It is a necessary incident of an eleemosynary corporation; 1 Mod. 82; "a power to correct abuses and to enforce due observance of the statutes of the charity, but not a power to revoke the gifts, to change uses or divest rights;" Allen v. McKean 1 Summ. 276, Fed. Cas. No. 229, per Story, J.

"A visitor has the right of inspecting the affairs of the corporation, and superintending all officers who have charge of them according to the statutes of the founder, without any control or revision of any other person or body, except the judicial tribunals, by whose authority and jurisdiction he may be restrained and kept within the limits of the granted powers, and made to regard the general laws of the land; in re Murdock, 24 Mass. 303. No. appeal lay from a visitor unless he visits qua Ordinary, when an appeal lay to the Crown in Chancery. It was said by Lord Camden that visitation is despotism uncontrolled and without appeal; Grant, Corp. 534. See, generally, Tudor, Charitable Trusts; Stephens, Statutes Relating to Ecclesiastical, etc., Institutions; Report of Oxford Commission (1852); 7 Com. Dig. 545; 21 Viner, Abr. 587. See 34 L. Mag. and Rev. 40, as to Oxford and Cambridge Universities.

"In Massachusetts it is held that the visitation of eleemosynary corporations according to the common law is in force except as altered by statute; In re Murdock, 24 Mass. 303; such statutes may vest visitatorial power in the courts, in the absence of a personal visitor, or even where there is one; In re Taylor Orphan Asylum, 36 Wis. 534; but where visitatorial power is conferred on certain public officers, the courts may not interfere unless such visitors should act contrary to law; Nelson v. Cushing, 2 Cush. (56 Mass.) 519.

"Even where a testator, in founding a hospital, directed that the trustees should annually report their acts to the court and give bonds, it was held that the court had no visitatorial power or other supervision;

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Jenkins v. Berry, 119 Ky. 350, 83 S.W. 594.

"The visitatorial power of a court over a cemetery association does not authorize it to substitute its own business judgment for that of the association; Roanoke Cemetery Co. v. Goodwin, 101 Va. 605, 44 S.E. 769.

"Under the visitatorial powers of a state over corporations doing business within its borders, it is competent for it to compel such corporations to produce their books and papers for investigation and to require the testimony of their officers and employees to ascertain whether its laws have been complied with, and this power extends to the production of books and papers kept outside of the state, and a statute requiring such production does not amount to an unreasonable search or seizure or a denial of due process of law; Consolidated R. Co. v. Vermont, 207 U. S. 541, 28 Sup. Ct. 178, 52 L. Ed. 327, 12 Ann. Cas. 658; Hammond P. Co. v. Arkansas, 212 U.S. 322, 29 Sup. Ct. 370, 53 L. Ed. 530, 15 Ann. Cas. 645. A corporation, being the creature of the state, has not the constitutional right to refuse to submit its books and papers for an examination at the suit of the state, and an officer of a corporation charged with criminal violation of a statute cannot plead the criminality of the corporation as a refusal to produce its books; Hale v. Henkel, 201 U. S. 43, 26 Sup. Ct. 370, 50 L. Ed. 652. A corporation is bound to furnish information when called for by the state, so far as reasonably possible, and state the facts which excuse them from answering more fully; State v. Express Co., 81 Minn. 87, 83 N.W. 465, 50 L.R.A. 667, 83 Am. St. Rep. 366; by statute the right exists in Kansas; See Western U. Tel. Co. v. Austin, 67 Kan. 208, 72 Pac. 850.

"It may be considered that, to a certain extent, railroad commissions are the machinery created by law for the exercise of visitatorial power.

"This power does not include the common law right of the shareholder to inspect the books of the corporation; Guthrie v. Harkness, 199 U.S. 148, 26 Sup. Ct. 4, 50 L. Ed. 130, 4 Ann. Cas. 433."

In the famous Dartmouth College Case, 17 U.S. (4 Wheat) 517, 672, Mr. Justice Story discusses the subject of visitors of eleemosynary corporations as follows:

"To all eleemosynary corporations, a visitatorial power attaches, as a necessary incident; for these corporations being composed of individuals, subject to human infirmities, are liable, as well as private persons, to deviate from the end of their institution. The law, therefore, has provided, that there shall somewhere exist a power to visit, inquire into, and correct all irregularities and abuses in such corporations, and to compel the original purposes of charity to be faithfully fulfilled. 1 Bl. Com. 480. The nature and extent of this visitatorial power has been expounded with admirable fulness and accuracy by Lord Holt in one of his most celebrated judgments. Phillips v. Bury, 1 Ld. Raym. 5; s.c. 2 T.R. 346. And of common right, by the dotation, the founder and his heirs are the legal visitors, unless the founder has appointed and assigned another person to be visitor. For the founder may, if he please, at the time of the

endowment, part with his visitatorial power, and the person to whom it is assigned will, in that case, possess it in exclusion of the founder's heirs. 1. Bl. Com. 482.

*** But where trustees or governors are incorporated to manage the charity, the visitatorial power is deemed to belong to them in their corporate character. Philips v. Bury, 1 Ld. Raym. 5; s.c. 2 T.R. 346; Green v. Rutherford, 1 Ves. 472; Attorney-General v. Middleton, 2 Ibid. 327; Case of Sutton Hospital, 10 Co. 23, 31."

That the power to supervise and examine banks is a visitatorial power is indicated by the following passage in Morse on Banks and Banking (5 Ed.) Vol 1, p.44:

"A state may invest the supervision of banks in a bank commissioner or other examiner, and grant to him visitatorial powers over banks and impose upon him the duty of examination of banks, the investigation of their solvency, and the winding up of their affairs if the protection of the depositors demands such action. He may examine the records of the bank, change the personnel of the board of directors, and establish rules for the proper discharge of his duty. His power should not be unduly narrowed by construction, nor can he be removed by the governor."

In Guthrie v. Harkness, 199 U.S. 148, a stockholder in a national bank applied for leave to inspect the books, accounts and loans of the bank for the purpose of ascertaining the value of his stock. Upon refusal to allow ^{proceedings} such inspection, he instituted/to compel the officers of the bank to permit him to examine the books. One of the defenses made on behalf of the officers was that the common law right of the stockholder to inspect the books of a corporation is cut off as to stockholders of national banks by Section 5241 of the Revised Statutes, which provides that "No association shall be subject to any visitatorial powers other than such as are authorized by this title or are vested in the courts of justice." The court held that the stockholder was entitled to examine the books of the bank and that the officers thereof must permit him to do so.

Mr. Justice Day said:

"But, it is said, the right of the shareholder to inspect the books is cut off by section 5241, providing 'no association shall be subject to any visitorial powers other than such as are authorized by this Title, or are vested in the courts of justice. We are unable to find any definition of 'visitorial powers' which can be held to include the common law right of the shareholder to inspect the books of the corporation * * *.

* * * * *

"The meaning of this section was before Judge Baxter in the case of First Nat. Bank of Youngstown v. Hughes, 6 Fed. Rep. 737, and of the meaning of the term 'visitorial powers', as used in section 5241, that learned judge said:

'Visitation, in law, is the act of a superior or superintending officer, who visits a corporation to examine into its manner of conducting business, and enforce an observance of its laws and regulations. Burrill defines the word to mean "inspection; superintendence; direction; regulation."

"At common law the right of visitation was exercised by the King as to civil corporations and as to eleemosynary ones by the founder or donor. 1 Cooley's Blackstone, 481. 'In the United States the legislature is the visitor of all corporations created by it, where there is no individual founder or donor, and may direct judicial proceedings against such corporations for such abuses or neglects as would at common law cause forfeiture of their charters.' 1 Cooley's Blackstone, 482, note.

"In the case before us the Supreme Court of Utah quotes from Merrill on Mandamus as follows:

'Visitors of corporations have power to keep them within the legitimate sphere of their operations, and to correct all abuses of authority, and to nullify all irregular proceedings. In America there are very few corporations which have private visitors, and in the absence of such, the State is the visitor of all corporations.'

"In no case or authority that we have been able to find has there been a definition of this right, which would include the private right of the shareholder to have an examination of the business in which he interested, and the right of discovery of the methods and means by which the agents of the corporation are conducting its affairs. The right of visitation being a public right, existing in the State for the purpose of examining into the conduct of the corporation with a view to keeping it within its legal powers, Congress had in mind in passing this section that in other sections of the law it had made full and complete provision for investigation by the Comptroller of the Currency and examiners appointed by him, and, authorizing the appointment of a receiver, to take possession of the business with a view to winding up the affairs of the bank. It was the intention that this statute should contain a full code of

"provisions upon the subject, and that no state law or enactment should undertake to exercise the right of visitation over a national corporation. Except in so far as such corporation was liable to control in the courts of justice, this act was to be the full measure of visitorial power."

The Board's power to exercise general supervision over Federal reserve banks and examine into their affairs is quite similar to the corresponding power of the Comptroller of the Currency over national banks, and it would seem that the nature and purpose of the Board's power must be practically the same as that of the Comptroller's.

In the case of State v. Morehead, (Nebr.) 155 N. W. 879, the court in discussing the right of the State Banking Board to refuse to issue a charter to a savings bank said:

"When the general rule of statutory construction is applied and section 16 is considered in connection with the other provisions, it must be held that the board is vested with authority not only to correct evils that may creep into the management of an existing bank, but to guard against dangers, that may threaten institutions about to be formed.

"The power to compel, beforehand, co-operation, and thus, it is believed, to make a failure unlikely and a general panic almost impossible, must be recognized, if government is to do its proper work, unless we can say that the means have no reasonable relation to the end. Noble State Bank v. Haskell, 219 U.S. 104, 112, 31 Sup. Ct. 186, 188 (55 L. Ed. 112, 32 L.R.A.(N.S.) 1062, Am. Cas. 1912A,487)."

"* * * We think the intention of the Legislature was to vest the banking board with general control and with authority to do all things reasonably necessary for the protection of depositors throughout the state. The Board also stands in the nature of a trustee for this guarantee fund, and it is its duty to take such precautions as may be necessary to protect its integrity. The terms 'general supervision and control' vest the banking board with duties of a very high order, and they are not to be perfunctorily discharged, but to be administered with the highest degree of intelligence and discretion.

"It is customary for Legislatures to grant to administrative bodies of this character the power to adopt rules, by-laws, and regulations reasonably necessary to carry out the purpose for which they are created, and this grant is not an improper delegation

"of authority. Blue v. Beach, 155 Ind., 121, 56 N.E. 89, 50 L.R.A. 64, 80 AM. St. Rep. 195 and cases cited. This is held generally to be the rule in matters coming within the police power of the state. That the banking business comes within that power is no longer an open question.

"The police power extends to all the great public needs (Camfield v. United States, 167 U.S. 518, (17 Sup. Ct. 864, 42 L. Ed. 260) and includes the enforcement of commercial conditions such as the protection of bank deposits and checks drawn against them by compelling cooperation so as to prevent failure and panic.' (Noble State Bank v. Haskell, 219 U. S. 104)

"The business of banking coming within the police power of the state, the same rule of construction may be applied to banking acts and to rules and regulations established by banking boards as applies to acts creating other administrative bodies coming within the police power. The Supreme Court of Judicature of Indiana, in discussing this phase of the question, in Blue v. Beach, supra, says:

"While it is true that the character or nature of such boards is administrative only, still the powers conferred upon them by the Legislature, in view of the great public interests confided to them, have always received from the courts a liberal construction, and the right of the Legislature to confer upon them the power to make reasonable rules, by-laws, and regulations, is generally recognized by the authorities.'"

The case of Great Northern Railway Company v. Snohomish County, 48 Wash. 478, 93 Pac. 924, involved the construction of a State statute requiring the State Board of Tax Commissioners to exercise "general supervision" over assessors and county boards of equalization and the assessment of taxable property in order to secure equality in taxation. The case turned upon the proper meaning of the term "general supervision" - whether it authorized the Commissioners to act merely in an advisory capacity or whether it authorized them to classify inter-county railroads and fix the value thereof for the purpose of taxation. The court held that the statute authorized the Commissioners to classify inter-county railroads and fix the value thereof for purposes of taxation; that the words "general supervision" imply something

more than a mere power to advise and suggest; that they confer authority to oversee and review the acts and correct errors of those over whom the right of supervision is granted. In the course of the opinion the court said:

"While these several provisions bear more or less directly on the question under consideration, the case turns principally on the meaning of the term 'general supervision' in the act defining the powers and duties of the state board of tax commissioners. * * * The state board of tax commissioners is given general supervision over assessors and county boards of equalization, to the end that all taxable property shall be placed on the assessment rolls and equalized as between the different counties and municipalities, so that equality of taxation shall be secured according to the provisions of law. What is meant by 'general supervision'? Counsel for respondents contend that it means to confer with, to advise, and that the board acts in an advisory capacity only. We cannot believe that the Legislature went through the idle formality of creating a board thus impotent. Defining the term 'general supervision' in *Vantongerren v. Hefferman*, 5 Dak. 180, 38 N.W. 52, the court said: 'The Secretary of the Interior, and under his direction, the Commissioner of the General Land Office, has a general "supervision over all public business relating to the public lands." What is meant by "supervision"? Webster says supervision means "to oversee for direction; to superintend; to inspect; as to supervise the press for correction." And, used in its general and accepted meaning, the Secretary has the power to oversee all the acts of the local officers for their direction, or, as illustrated by Mr. Webster, he has the power to supervise their acts for the purpose of correcting the same; and the same power is exercised by the Commissioner under the Secretary of the Interior. It is clear, then, that a fair construction of the statute gives the Secretary of the Interior, and under his direction, the Commissioner of the General Land Office, the power to review all the acts of the local officers, and to correct, or direct a correction of, any errors committed by them. Any less power than this would make the "supervision" an idle act - a mere overlooking without power of correction or suggestion.' Defining the like term in *State v. F.E. & M.V. R.R. Co.*, 22 Nebr. 313, 35 N.W. 118, the court said: 'Webster defines the word "supervision" to be "the act of overseeing; inspection; superintending." The board therefore is clothed with the power of overseeing, inspecting, and superintending the railways within the state, for the purpose of carrying into effect the provisions of this act, and they are clothed with the power to prevent unjust discrimination against either persons or places.' It seems to us that the term 'general supervision' is correctly defined in these cases. Certainly a person or officer who can only advise or suggest to another has no general supervision over him, his acts or his conduct."

Similarly, it would seem that the Board's power to exercise "general

supervision" over the Federal reserve banks would include the power to require the Federal reserve banks to carry out the purposes of the Act and to check any practices which would be detrimental to the public interest or inconsistent with the purposes of the Act. Certainly, the Board's power of general supervision should not be construed in such a way as to "make the 'supervision' an idle act - a mere overlooking without power of correction or suggestion."

On the other hand, there are some cases indicating the limitations on this power of general supervision.

One of such cases is that of State v. Bronson, (Mo.) 21 S.W.1125. The constitution of Missouri provides that "The supervision of instruction in the public schools shall be vested in a board of education whose powers and duties shall be prescribed by law." The legislature passed a law creating a commission to purchase the books necessary for use in the schools. This law was objected to by the directors of a school district as being unconstitutional on the ground that it was in violation of the powers vested in the board of education by the constitution.

The court held that the selection and purchase of the school books does not come within the fair meaning of the words "the supervision of instruction" and the law does not violate the constitutional provision. In so holding the court said:

"With such a general system of public schools it must be evident that when the constitution says the supervision of instruction shall be vested in the state board of education, it does not mean that this board shall enter into the details of giving instruction or carrying on the schools. All this is and may be left to subordinate officers. It means no more than a general oversight over the matter of instruction."

In the case of Roanoke Cemetery Co. v. Goodwin, 101 Va. 605, 44 S.E. 769, the lower court had reviewed the reasonableness of regulations prescribed by the cemetery association for the conduct of its business and the fees charged for opening graves and had issued a decree whereby the court undertook to prescribe its own rules and regulations for the management of the affairs of the company, even going to the extent of determining the fund out of which the salary of the superintendent should be paid. The Supreme Court of Appeals in Virginia held that the decree exceeded the power of the court and said:

"It is not permissible for a court to thus substitute its own business discretion and judgment for that of the company; its visitorial powers have no such scope. 1 Clark & Marshall, p. 547. "

Similarly, it might be said that the authority to exercise general supervision over the Federal reserve banks does not carry with it the duty to enter into the details of operating the banks nor the authority for the Federal Reserve Board to substitute its own business judgment and discretion for that of the directors.

Without attempting to lay down a precise definition of the Board's power of general supervision, it may be said that generally it includes the power and carries with it the duty to see that Federal reserve banks do not exceed their corporate powers; that they do not discriminate in favor of or against any class of the public or any member banks; that they preserve and protect the banking reserves of the country with which they are entrusted; that they do not do anything which may endanger their solvency or the soundness of their currency; that they carry out faithfully the purposes of the Federal Reserve Act; and that they comply in all respects with both the letter and spirit of

the law. I am further of the opinion that this power carries with it the power to require the Federal reserve banks to cease doing anything which is ultra vires which might defeat the purposes of the Federal Reserve Act or which might be detrimental to the public interest.

Moreover, this power is to be construed liberally so as to enable the Board effectively to safeguard the great public interests confided to it. *Blue v. Beach*, 155 Ind. 121, 45 N.E. 89. As stated in *State v. Moreland*, supra, "The terms 'general supervision and control' vest the banking board with duties of a very high order, and they are not to be perfunctorily discharged, but to be administered with the highest degree of intelligence and discretion."

On the other hand, I am of the opinion that this power does not carry with it either the duty or the power to interfere in the details of the operation of the Federal reserve banks or to substitute the Board's own business judgment and discretion for that of the directors of the Federal reserve banks.

It does, however, include the power to check any actions on the part of the Federal reserve banks which would nullify or impair the effective exercise of any lawful powers of the Federal Reserve Board or which would constitute an evasion of any control which the Federal Reserve Board is authorized to exercise over the general credit policies of the System as a whole. Within this class of actions which are subject to regulation under the Board's general supervisory power would clearly be included international dealings in gold, which might tend to affect or impair the effectiveness of the rediscount rate, which is expressly made subject to review and determination by the Federal Reserve Board, or which would nullify the effect of the Board's restrictions on the open market operations of the banks.

THE RELATIVE FUNCTIONS OF THE BOARD AND THE BANKS
AS SHOWN BY LEGISLATIVE HISTORY.

That these views, based upon a purely legal interpretation of the Board's powers, are in accordance with the intent of Congress at the time it enacted the Federal Reserve Act appears from the following passages in the report on the original Federal Reserve Act submitted to the House of Representatives by Mr. Glass, on behalf of the Banking and Currency Committee, under date of September 9, 1913 (pages 16, 18, 19, 42 and 46):

"In order that the banks may be effectively inspected, and in order that they may pursue a banking policy which shall be uniform and harmonious for the country as a whole, the committee proposes a general board of management intrusted with the power to overlook and direct the general functions of the banks referred to. To this it assigns the title of 'The Federal reserve board.'"

* * * * *

"The only factor of centralization which has been provided in the committee's plan is found in the Federal reserve board, which is to be a strictly Government organization created for the purpose of inspecting existing banking institutions and of regulating relationships between Federal reserve banks and between them and the Government itself. Careful study of the elements of the problem has convinced the committee that every element of advantage found to exist in cooperative or central banks abroad can be realized by the degree of cooperation which will be secured through the reserve-bank plan recommended, while many dangers and possibilities of undue control of the resources of one section by another will be avoided. Local control of banking, local application of resources to necessities, combined with Federal supervision, and limited by Federal authority to compel the joint application of bank resources to the relief of dangerous or stringent conditions in any locality are the characteristic features of the plan as now put forward. The limitation of business which is proposed in the sections governing rediscounts, and the maintenance of all operations upon a footing of relatively short time will keep the assets of the proposed institutions in a strictly fluid and available condition, and will insure the presence of the means of accommodation when banks apply for loans to enable them to extend to their clients larger degrees of assistance in business. It is proposed that the Government shall retain a sufficient power over the reserve banks to enable it to exercise a directing authority when necessary to do so, but that it shall in no way attempt to carry on through its own mechanism the routine operations of banking which require detailed

knowledge of local and individual credits and which determine the actual use of the funds of the community in any given instance. In other words, the reserve-bank plan retains to the Government power over the exercise of the broader banking functions, while it leaves to individuals and privately owned institutions the actual direction of routine."

* * * * *

"In this section provision has been made for the creation of a general board of control acting on behalf of the national Government for the purpose of over-seeing the reserve banks and of adjusting the banking transactions of one portion of the country, as well as the Government deposits therein, to those of other portions."

"(e) In paragraphs (e), (f), (g), (h), and (i) are conveyed powers which are largely self-explanatory and about which there can be little or no question, granting the general idea of effective Government oversight through a Federal reserve board or some similar organization."

The power of carrying on the regular routine every-day business of the Federal reserve banks, therefore, and of determining the local policies was entrusted to their respective boards of directors, but the Federal Reserve Board was created as "a general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the Government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

That the open market operations of the Federal reserve banks and their transactions with foreign central banks in gold, credits and bills of exchange is a function affecting the country as a whole, seems perfectly obvious, and it would seem to follow that the Board was intended to have a control over all such operations. This will appear more clearly from a consideration of the history and nature of such transactions.

HISTORY AND NATURE OF OPEN MARKET FUNCTIONS.

The report of the House Banking and Currency Committee (pp. 52 and 53) discusses section 15 of the original Federal Reserve Bill, which later became section 14 of the Federal Reserve Act as follows:

"Section 15.

"It will have been observed that the transactions authorized in section 14 (now section 13 of the Federal Reserve Act) were entirely of a nature originating with member banks and involving a rediscount operation. It is clearly necessary to extend the permitted transactions of the Federal reserve banks beyond this very narrow scope for two reasons:

"1. The desirability of enabling Federal reserve banks to make their rate of discount effective in the general market at those times and under those conditions when rediscounts were slack and when therefore there might have been accumulation of funds in the reserve banks without any motive on the part of member banks to apply for rediscounts or perhaps with a strong motive on their part not to do so.

"2. The desirability of opening an outlet through which the funds of Federal reserve banks might be profitably used at times when it was sought to facilitate transactions in foreign exchange or to regulate gold movements.

"In order to attain these ends it is deemed wise to allow a reserve bank, first of all, to buy and sell from anyone whom it chooses the classes of bills which it is authorized to rediscount. The reserve bank evidently would not do this unless it should be in a position which, as already stated, furnished a strong motive for so doing. Outright purchases in the open market would of course require the payment of the face of the paper less discount, whereas rediscount operations would require simply the holding of a reserve of $33\frac{1}{3}$ per cent behind the notes issued or deposit accounts created in the course of the rediscount operation. Apart from this fundamental permission, it was deemed wise to allow the banks to buy coin and bullion and borrow or loan thereon and to deal in Government bonds. The power granted in subsection (d) to fix a rate of discount is an obvious incident to the existence of the reserve banks, but the power has been vested in the Federal reserve board to review this rate of discount when fixed by the local reserve bank at its discretion. This is intended to provide against the possibility that the local bank might be establishing a dangerously low rate of interest, which the reserve board,

familiar as it would be with credit conditions throughout the country, would deem best to raise.

"The final power to open and maintain banking accounts in foreign countries for the purpose of dealing in exchange and of buying foreign bills is necessary in order to enable a reserve bank to exercise its full power in controlling gold movements and in facilitating payments and collections abroad."

The open market powers granted to Federal reserve banks under Section 14, therefore, were designed primarily to enable the Federal reserve banks to make their discount rates effective, to facilitate transactions in foreign exchange, and to regulate and control gold movements. The banks were given power to fix discount rates subject to review and determination by the Federal Reserve Board, and it was explained that the power to review discount rates was vested in the Federal Reserve Board in order to provide against the possibility that a Federal reserve bank might establish a dangerously low rate which the Federal Reserve Board, in view of general credit conditions throughout the country, might consider inadvisable.

Having the power to review and determine rediscount rates it would seem necessary that the Federal Reserve Board should also have power to review, regulate, and restrict any transactions which might have a bearing on the effectiveness of the rediscount rate.

Obviously, the investment of Federal reserve funds abroad would have a bearing on the effectiveness of the rediscount rate and the Federal Reserve Board was given specific power to regulate, limit and restrict the purchase and sale of bills of exchange. While no specific power to control gold movements was given to the Federal Reserve Board, it would seem clear that the Federal Reserve Board was intended, in the exercise

of its general supervisory power, to have some control over gold transactions which might have a bearing on the effectiveness of the rediscount rate or which might affect general credit conditions in this country. This is entirely consistent with the theory that the Boards of Directors of the Federal reserve banks are intended to manage the local transactions of the Federal reserve banks, but that the Federal Reserve Board is given power to control any transactions which might have a bearing on general credit conditions in this country, or in the position of this country in the international money market.

RELATIONS BETWEEN OPEN MARKET TRANSACTIONS, REDISCOUNT
RATES AND GOLD RESERVES.

The intimate relation between open market transactions, the rediscount rate and international gold movements is further illustrated by a report submitted to the Federal Reserve Board under date of October 12, 1915, by Messrs. Warburg and Delano. The Board at that time had been giving very careful study to a proposal made by Mr. McAdoo, Secretary of the Treasury, to have the Federal reserve banks establish branches or agencies in Latin-American countries; and the above mentioned report discussed the open market powers of the Federal reserve banks in great detail, pointed out the proper scope and purpose of such transactions, and the disadvantage of having too large a proportion of the Federal reserve banks' funds invested in foreign countries. This entire report is very illuminating and the following passage is of especial interest in this connection:

"The Federal Reserve Banks have been organized as custodians and conservators of the reserve money of the member banks. The law permits member banks to count as part of their reserve the balances kept by them with these Federal Reserve Banks, and it is the first duty of the Federal Reserve Banks to maintain their funds in a condition so liquid that their member banks may confidently rely upon the ability of the Reserve Banks to provide gold and credit when required. This function of the Federal Reserve Banks is at no time to be considered lightly, and in times of stress involves grave responsibilities and difficulties. It is from this point of view that the law has imposed very distinct restrictions as to the character of the investments which may be made by the Federal Reserve Banks, permitting only a certain proportion of their funds to be normally invested and requiring that such investments as are made be essentially of a self-liquidating character, and of a short maturity. It would be unsafe and would shake the foundations of confidence on the part of the member banks as well as of other nations should Federal Reserve Banks use a substantial portion of their resources for investment in Latin American credits.

"Such procedure would run counter to all banking practice in those countries where banks of the character of the Federal Reserve Banks have been in successful operation for generations. Neither the Bank of England, the German Reichsbank, the Banque of France, nor any other of the government banks of the less important countries has ever adopted such a policy. The operations of these banks are primarily confined to transactions at home, and foreign exchange transactions are engaged in only as far as they may be considered necessary for the protection of the gold holdings of these government banks. The leading government banks normally maintain a substantial holding of ninety-day bills on such foreign countries as are apt to become important creditor nations from time to time, but these bills are drawn only on such countries as have a well-established gold standard, well-developed discount facilities, and a broad market where these bills can be promptly resold. The object of these foreign holdings can best be illustrated by a concrete case, e.g., should the Bank of the Netherlands find that exchange on London advanced to a point where gold began to move from Holland to England, it would offer for sale drafts on London in order to counteract this movement. When its English cash balance had been exhausted, the Bank of the Netherlands would rediscount in London the long bills that it might previously have accumulated and thus create new balances with which to stop the outflow of gold.

"Such foreign bills are taken only on the few foremost financial powers. It is to be expected that American bankers' acceptances will in the future, when peace shall have been restored, become one of the privileged investments of these government banks. In order to maintain their 'position' in the foreign exchange market, it is necessary for government banks to renew from time to time their foreign paper as it matures, and it is for this purpose that they use accounts with correspondents in those few countries, none but the strongest firms being selected to act in this capacity. These firms or banks are permitted to buy only first class banking paper, and they endorse this paper to the government banks so that such government banks do not run any risk of loss of capital in the transactions and so that the government banks hold only paper which can at any time be resold in the open market or to the foreign government banks if need be.

"It was this function of foreign correspondents or agents that the writers of the Federal Reserve Act had in mind when they provided that Federal Reserve Banks should have the right, with the consent of the Federal Reserve Board,

" 'to open and maintain banking accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may deem best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell with or without its indorsement, through such correspondents or agencies, bills of exchange arising out of actual commercial transactions which have not more than ninety days to run and which bear the signature of two or more responsible parties.'

"For operations as above described the powers granted by the Act will no doubt be availed of to good advantage, when normal conditions shall have been restored in the important foreign exchange markets.

"Your committee wishes to emphasize the fact that the purpose of this paragraph was to give to the Federal Reserve Banks a greater strength and additional liquidity by enabling them to maintain a secondary gold reserve and to possess themselves of assets upon which the Federal Reserve Banks could realize in case of need without being forced to contract the credit facilities granted at home - the liquid element of these foreign investments and the additional protection that they would give to the Federal Reserve System being the essential ground for permitting Federal Reserve Banks to enter a foreign field."

The following passage from a preliminary report on this subject prepared by Mr. Warburg under date of October 4, 1915, also throws much light on the history and purpose of Section 14 of the Federal Reserve Act:

"When dealing with interpretations of the Act, a great deal has often been said concerning the 'intention of the writers of the law'. Inasmuch as paragraph (e) of Section 14 has been bodily taken over from the Aldrich Plan, we have to go beyond the writers of the Federal Reserve Act in order to find the true intent of this paragraph, and inasmuch as Senator Aldrich consulted me concerning this particular phase of the intended act, and inasmuch as I suggested to Senator Aldrich the insertion of this very paragraph, I may be pardoned for venturing to explain what its original intention was.

"The two paragraphs read as follows:

Section 14(e) of the Federal Reserve Act provides that every Federal Reserve Bank shall have power:

"with the consent of the Federal Reserve Board, to open and maintain banking accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may deem best.

for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange arising out of actual commercial transactions which have not more than ninety days to run and which bear the signature of two or more responsible parties.'

Section 36 of the Aldrich Plan reads:

"National Reserve Association to have power

to open and maintain banking accounts in foreign countries; to establish agencies in foreign countries for the purpose of purchasing, selling and collecting foreign bills of exchange; to buy and sell, with or without its indorsement, through such correspondents or agencies, checks or prime foreign bills arising out of commercial transactions having not exceeding 90 days to run and bearing the signature of two or more responsible parties.'

"It will be seen that the only substantial change was the insertion of the words 'bill of exchange' where the Aldrich Plan read 'foreign bills of exchange' and 'prime foreign bills'.

"From actual operation (having been active in several banks

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"in foreign countries acting as correspondents or agents for government banks in other countries) I was in a position to appreciate from my own experience the importance of the functions of foreign correspondents or agents, and was anxious to secure the advantages of such connections for our future financial system. The operations of these foreign agents for their government banks are substantially as follows:

"Let me choose the Bank of the Netherlands as an illustration, though practically all important government banks have been operating on similar lines.

"There will be certain times when, for economic reasons, through the movement of products from or to the Netherlands into or from other countries, or for extraordinary reasons, exchange on Holland will move up to the gold exporting point or down to the gold importing point. When the point is reached where gold may leave the country, the Bank of the Netherlands has two main means of protecting itself; one is by increasing the discount rate, which measure will result in higher interest rates apt to attract foreign money into Holland and thereby to counteract the flow of money from the country. The other is to sell from its portfolio bills on foreign countries in order to create balances in those countries and thereby provide means of payment without shipping the yellow metal. It, therefore, has been the policy of foreign government banks to acquire foreign bills of exchange on such countries as are apt to be creditor nations from time to time and such countries only as have safe gold standards and enjoy first class banking credit. These purchases of foreign exchange on such countries are being carried on whenever exchange is low or when interest rates in the home country are so low that it would seem prudent for the government bank to withdraw its funds from active employment at home and invest the funds thus withdrawn in foreign countries, whence they can be called back whenever rates become active at home and whenever the influence of the government bank may be used to advantage in preventing home rates from becoming burdensome to the borrowing community.

"When acquiring a ninety day draft on a British bank, the Bank of the Netherlands will draw interest on this bill at the discount rate; but when the bill matures or if the Bank of the Netherlands acquires checks on London, it creates a balance which needs to be converted into an interest bearing investment. These balances will then be employed by the correspondents or agencies (whichever name we may give to them) for the purchase of other ninety day drafts on London. According to its requirements, the Bank of the Netherlands will renew from time to time its foreign investments. The Bank

of the Netherlands considers these foreign holdings as a secondary gold reserve and continues them almost perpetually, with such casual interruptions as may become necessary for the protection of its own gold holdings.

"It was the consideration of these conditions that led to the insertion in the Aldrich draft of the clause above quoted, and it will now become apparent what was meant when it was provided that the National Reserve Association - or the Federal Reserve Banks - should have power to 'open and maintain banking accounts in foreign countries * * *, establish agencies in such countries * * * for the purpose of purchasing, selling and collecting bills of exchange' and that they should be able to 'buy and sell with or without its indorsement, through such correspondents or agencies, bills of exchange * * *'. In case of a 'pinch', the Bank of the Netherlands was to be in a position of ordering its correspondent to rediscount with the Bank of England or in the open market millions of its holdings of British acceptances so as to enable the Bank of the Netherlands to draw a check against the balance so produced and so to protect its gold. That is why it was stipulated that the bills to be purchased by these agents should be 'prime bills' and should not run beyond ninety days and should bear the signature of two or more responsible parties, so that these bills should be current bills that the correspondents should be able to sell freely at all times and bills on which a loss should practically be excluded.

"It ought to be stated that the foreign governments select the strongest possible firms in foreign countries to act for them as agents, and that they invariably buy these bills with the indorsement of their agent (or correspondent) so that they could lose only in case, not only the foreign correspondent or agent should fail, but also the two additional signatures on the bill.

"I am well aware of the fact that these banking habits have developed as a protection in times of peace but that in times of war these large foreign balances may be a source of some anxiety. It must be borne in mind, however, that government banks normally work in times of peace and that these methods of protecting their country against acute gold withdrawals or against the tendency of too low rates of interest have effectually met many an acute emergency, and furthermore that even in times of war these balances have eventually been paid. I might draw attention to the fact that a year ago, when we were called upon to meet our large debts abroad, it would have been a great protection for us if at that time balances could have been made available in London to meet this first onrush.

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"My object in reviewing the origin and original intent of this paragraph is to show that this clause was inserted for the sole purpose of providing an additional piece of machinery for the protection of the Federal Reserve System. Clearly, no other intention was underlying this section!"

The question whether the Federal reserve banks should establish branches or agencies in Latin American countries was submitted to the Governors' Conference, the Conference of Federal Reserve Agents and the Federal Advisory Council, and, after obtaining the views of these three different bodies, a further report was submitted to the Federal Reserve Board under date of January 8, 1916, by a committee consisting of Governor Harding and Messrs. Delano and Warburg. This final report reads in part as follows:

"Your Committee is happy to report that complete agreement was found to exist in all three bodies with the principles expressed by the Board at its meeting on October 27th, the substance of which was published on that day in a notice (Mimeograph 385) of which a copy is appended hereto. * * * It is the first duty of the Federal reserve banks to maintain their funds in a condition so liquid that their member banks may confidently rely upon the ability of the Federal reserve banks to provide gold and credit when required. This function of the Federal reserve banks is at no time to be considered lightly and in times of stress involves grave responsibilities and difficulties. * * * It would be unsafe and would shake the foundation of confidence on the part of the member banks as well as of other nations, should Federal reserve banks use a substantial portion of their resources for investment in Latin-American credit. Such procedure would run counter to all banking practices in those countries where banks of the character of the Federal reserve banks have been successfully operated for generations * * *. The operations of these banks are primarily confined to transactions at home, and foreign exchange transactions are engaged in only as far as they may be considered necessary for the protection of the gold holdings of these Government banks. * * * (Discussion of operations of European Central banks). In order to maintain their 'position' in the foreign exchange market, it will be necessary for Government banks to renew from time to time their foreign paper as it matures, and it is for this purpose

that they use accounts with correspondents in those foreign countries, none but the strongest firms being selected to act in this capacity. * * * It was this function of foreign correspondents or agencies that your committee is confident the writers of the Federal Reserve Act had in mind when they provided that the Federal reserve banks should have the right, with the consent of the Federal Reserve Board, to exercise the powers conferred under Section 14 (e) * * * . Your committee has no doubt that the purpose of this paragraph was to give to the Federal reserve banks greater strength and additional liquidity by enabling them to maintain a secondary gold reserve and to possess themselves of assets upon which the Federal reserve banks could realize in case of need without being forced to contract the credit facilities granted at home - the liquid element of these foreign investments and the additional protection that they would give to the Federal Reserve System being the essential ground for permitting Federal reserve banks to enter a foreign field. * * * Should Federal reserve banks be empowered to lend to foreign Governments notwithstanding the law which distinctly provides that Federal reserve banks can now purchase only United States Government securities and warrants of United States municipalities, carefully circumscribed and having a maturity of not exceeding six months ? * * * Should Federal reserve banks be allowed to embarrass the Government by being themselves important creditors of foreign Governments in case of war with, or revolution in, such countries? Your committee is very positive in its view that such enlarged powers should not be granted; * * * "

While these reports arose out of a controversy entirely different from, and extraneous to, the question now under consideration, they serve to show the intimate connection between the open market powers of the Federal reserve banks, the effectiveness of the rediscount rate, and the protection of the gold reserves of the Federal Reserve System.

They show clearly that one of the most important purposes of the rediscount rate and the open market purchase of bills of exchange is to protect the gold reserves of the Federal Reserve System. Over the rediscount rates and the open market transactions the Federal Reserve

Board is given a great measure of control. To say that the Federal Reserve Board could exercise this control over rediscount rates and open market transactions with a view of protecting the gold reserves of the Federal Reserve System but that it could do nothing to prevent the Federal reserve banks from engaging in international transactions in gold in such a way as to impair the gold reserves would be to give the Federal Reserve Act an interpretation which clearly would defeat the will of Congress.

Respectfully,

Walter Wyatt
General Counsel

WW-WLR DMC-SAD

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SIMULTANEOUS EXAMINATIONS.

McAdoo

No necessity for simultaneous examinations.

Jan. 17, 1923. 7 - 112.

Herson

Practicable to examine simultaneously bank having 75 branches.

Feb. 15, 1924. 8 - 58.

Gives particulars.

Feb. 18, 1924. 8 - 59.

Gov. Crissinger - impossible.

Feb. 25, 1924. 8 - 59.

Herson

Says practicable

Cost say \$20,000 for Bank of Italy

Feb. 28, 1924. 8 - 59.

C.S.H. moved to order simultaneous examinations.

Tabled.

Feb. 28, 1924. 8 - 60.

C.S.H. said Board notified Federal Reserve Bank of San Francisco it would not accept the California examination because not simultaneous, and C.S.H. said it is our duty to examine simultaneously.

Feb. 28, 1924. 8 - 60.

Miller resolution

Board will admit no branches unless state is making simultaneous examinations. Passed.

Feb. 29, 1924. 8 - 60.

California Superintendent says does examine simultaneously except the four largest banks.

Mar. 7, 1924. 8 - 61.

C.S.H. moved for simultaneous examinations by Herson of all state banks not now examined simultaneously by State Superintendent.

Carried.

Mar. 18, 1924. 8 - 62.

Miller's motion forbidding applications where no simultaneous state examination.

Passed.

Mar. 18, 1924. 8 - 62.

California Superintendent says will examine simultaneously.
April 22, 1924. 8 - 63.

Gov. Crissinger demanded to know whether simultaneous examinations are
to be made as ordered some time ago.

James said California now examining Bank of Italy simultaneously, and our
examiners were helping and watching and that he was content to
await result, in California at least.

Oct. 31, 1924. 9 - 45.

October 12, 1931.

To Governor Meyer

From Mr. Goldenweiser

You may be interested in the following table showing the amount of currency outstanding by Federal reserve districts in excess of the amount last year.

INCREASE IN MONEY IN CIRCULATION BY FEDERAL
RESERVE DISTRICTS

(In millions of dollars)

October, 1930 over
September 30, 1931.

New York	↓ 280
Chicago	↓ 255
Cleveland	↓ 100
San Francisco	↓ 80
Philadelphia	↓ 75
Richmond	↓ 60
Kansas City	↓ 35
All other	↓ 40
Total	↓ 905

To Governor Meyer

From Mr. Goldenweiser

October 13, 1931.

The situation about postal savings banks is as follows:

There has been an increase of \$280,000,000 in these deposits between June 30, 1930, and the end of September of this year, when the total reached \$460,000,000. To the extent that this growth has been an alternative to hoarding, it has been a net gain to the banks with whom most of the funds are redeposited, and has diminished the demand on the reserve banks for currency.

Ordinarily the postal authorities redeposit a large part of the savings funds; on May 31, for example, \$289,000,000 out of a total of \$325,000,000 was on deposit with banks. United States security holdings of the savings funds have been relatively small, about \$27,000,000, and until recently have changed relatively slowly as postal savings bonds ($2\frac{1}{2}$ per cent) were purchased in the open market. In recent months, however, with money rates at a very low level, the banks have been reluctant to accept postal savings, because they have been obliged to pay interest at the rate of between $2\frac{1}{4}$ and $2\frac{1}{2}$ per cent in order to enable the Postal Savings System to pay the depositors the 2 per cent required by law. In view of this reluctance on the part of banks, an executive order was obtained from the President authorizing the purchase of \$50,000,000 of United States bonds by the Postal Savings System. Acting on this authority, the system purchased between September 15 and October 1 \$27,000,000 of Government

bonds, and authorized further purchases up to \$40,000,000. These purchases by the Postal Savings System have deprived the banks of the country of an equivalent amount of deposits from that source, but have furnished them with an identical amount of deposits by persons from whom the bonds were purchased. Unless, therefore, the new deposits were demand deposits, requiring a demand deposit reserve instead of the time deposit reserve required against postal savings deposits, the banks as a whole have lost nothing by the transaction. Individual banks, however, particularly small banks scattered in the interior, have failed to receive additional postal savings deposits, while the deposits arising from security purchases have no doubt gone to the city banks. The complaints probably arise from the banks that would have liked to receive the postal savings deposits, which are particularly desirable because they are seldom withdrawn.

We understand that no funds previously deposited with banks have been withdrawn by the Postal System for the purchase of the bonds, but that funds have been deposited with the United States Treasury until such time as purchases of bonds were made in the open market.
