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Before the Federal Reserve Board.

IN THE MATTER OF APPLICATION OF
BANKS IN EASTERN WISCONSIN TO
BE DETACHED FROM FEDERAL RE-
SERVE DISTRICT NUMBER NINE (MIN-
NEAPOLIS) AND ANNEXED TO FED-
ERAL RESERVE DISTRICT NUMBER
SEVEN (CHICAGO).

**Answer and Brief of John H. Rich, Representative of
the Federal Reserve Bank of Minneapolis.**

A. UELAND,
Counsel.

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FEDERAL RESERVE DISTRICT NUMBER NINE (MIN-
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DISTRICT NUMBER SEVEN (CHICAGO).

Answer and Brief of the Representative of the Federal Reserve Bank of Minneapolis.

I.

This is a proceeding to review the decision of the Reserve Bank Organization Committee as respects the geographical limits of the Ninth Reserve District. The proceeding is instituted in accordance with Regulation No. 1 of August 28th, 1914. The petition was not filed until March, 1915, and we contend that this was too late and that the petition should therefore be dismissed. It is true that no definite time is fixed by the Federal Reserve Act, or by Regulation No. 1, for an appeal from the Committee's decision; all there is said on that subject is found in Section 2 of the Act: "The determination of said organization committee shall not be subject to review except by the Federal Reserve Board *when organized*." But this does not give unlimited time. When no time is specified in a statute, a reasonable time only is intended. "A reasonable time means as soon as circumstances will permit." (Winfield's Ad-

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judged Words and Phrases, 519, and cases cited.) The circumstances here were that the petition for a review could easily have been filed at least six months earlier. The petitioners knew of the decision April 2nd, 1914; they proceeded nevertheless to subscribe for stock in the bank, thereby giving it the requisite capital, and to participate in the election of directors; and one of the petitioners (The Commercial National Bank of Oshkosh) even participated in executing the organization certificate. If this were consistent with an intention to appeal, it shows at least that the petitioners had from April 2nd to August 10th (the date on which the Board qualified), to prepare a petition for a review by the Board "*when organized.*" Meanwhile the relation between the Reserve Bank and the member banks in the territory covered by the petition became more and more interwoven, and a dissolution of it now by a reversal of the decision would involve much labor and no inconsiderable expense.

The provision in Section 2 of the Act giving the Board authority to readjust districts is not overlooked, but that is to enable the Board to meet future changes in conditions and is to be acted on in the light of experience and not by way of a review of the Organization Committee's decision.

II.

Section 2 of the Act directed the Organization Committee to designate not less than eight nor more than twelve cities as Federal reserve cities and to "divide the continental United States, excluding Alaska, into districts, each district to contain only one of such Federal reserve cities." It is expressly provided that the districts "shall not necessarily be coterminous with any state or states." It is quite clear that there is to be one district for each bank, not two or more, and that that district is to be one subdivision of the country, not several. On this appeal it is contended by the petitioners, in effect, that the

Organization Committee, should have made the Ninth District two, widely separated parts of the country, for they want the Board to detach the portion of Wisconsin that connects the western part of the district with the Northern Peninsula of Michigan. Obviously the Organization Committee had no authority by the Act to make the Ninth District what the petitioners now ask the Board to make it. The petitioners' reason for seeking this extraordinary and (as we contend) illegal result can probably be found in Regulation No. 1, which requires the signatures of "at least two-thirds of the member banks in the territory which the petition asks to have taken out of one district and annexed to another." There are thirty-one member banks in the Michigan part of the district and sixty-one in the territory covered by the petition, or in all ninety-two, of which fifty-three or less than two-thirds, have joined in the petition. Assuming, therefore, that upon a review of the Organization Committee's decision, a district cannot be cut into fragments, the petition lacks nine member banks of the required two-thirds majority. If it be said that the petition contains the signatures of more than two-thirds of a particular portion of the district, the answer is that an appeal asking the Board to make the decision what the Committee could not have made it, has no merit, and should be dismissed. If it be suggested that the Board should also detach the Michigan portion of the district, although not prayed for in the petition, the answer is that this cannot be done under Regulation No. 1 without consulting the thirty-one member banks of that part of the district and have them counted in making up the necessary two-thirds majority. From either point of view, and aside from the fact that the petition is not filed within a reasonable time, the petition should be dismissed.

III.

The contentions in petitioner's brief involve a glaring contradiction. Counsel starts out by claiming that the decision of the Committee should be reviewed upon the testimony taken, the same as the findings of a court upon the evidence in a law suit (pp. 1-7) ; he thereupon proceeds to furnish facts collected since the decision was made (pp. 7-14). He is perfectly right in saying that "a judgment of the trial court unsupported by the evidence, or contrary to the evidence, will be reversed on appeal." The reason for this is, that a judge can only ascertain facts in controversy from competent evidence, produced in court; he cannot act on his own knowledge, or go out and obtain information in his own way. But this is precisely what the Act authorized and directed the Committee to do. It was to "divide the continental United States * * * into districts," and it was authorized, not required, "to employ * * * expert aid, to take testimony * * * and to make such investigation as may be deemed necessary by the said committee in determining the reserve districts and in designating the cities within such districts where such Federal reserve-banks shall be severally located" (Section 2). The Committee could have located the reserve cities and the districts without taking any testimony at all; it did as a matter of fact hear unsworn statements, which related directly to the matter of selecting the reserve-bank cities, and only incidentally to the designation of districts. As to the boundaries of the districts there was not, and in the nature of things could not have been, any testimony taken, sworn or unsworn. The decision as to boundaries rests on the good judgment of the Committee.) The contention of counsel that all a bank or group of banks now need to do to upset the boundaries fixed by the Committee is to show that no person told the Committee to run the line at that particular place, or that some person told the Committee that in his opinion the line should *not* be run in that place, deserves no further

B comment. If the Board on this or any other appeal should undertake to review the merits of the decision, it will have to rely upon its better judgment, or upon information more reliable than that which the Committee received. It may take the statements made to the Committee for what they may be worth, but it cannot be bound by those statements, or by the absence of testimony, any more than the Committee was.

IV.

Under Section 2 of the Act, the Organization Committee was first to designate the reserve-bank cities, and thereupon "to apportion" to each city a district "with due regard to the convenience and customary course of business." This does not mean that a designation of a district resulting in the slightest diminution of convenience, or in the slightest interference with the customary course of business in a particular locality was illegal; it means just what it says that "*due regard*" was to be given to that convenience and course of business. As already stated, the Act contemplates one solid district for each reserve city. Each district had to comprise, on an average, four states. The convenience and customary course of business of banks within a much narrower compass are radically different. To suit the convenience and customary course of business of every locality was, therefore, impossible. Nothing can illustrate this better than the vote for reserve-bank cities. Alabama, with 53 out of 73 votes for Birmingham, had to go to Atlanta; Colorado, with 112 out of 113 votes for Denver, to Kansas City; Connecticut, with 64 out of 71 for New York, to Boston; Louisiana, with 24 out of 26 for New Orleans, to Atlanta; Maryland, with 95 out of 98 for Baltimore, to Richmond; Nebraska, with 181 out of 223 for Omaha, to Kansas City, etc. etc. (Letter from Reserve Bank Organization Committee transmitting the briefs etc., pp. 371, 356). This will give some idea of the task confronting the Board if Counsel's contention is correct that upon a

review of the Committee's decision the mere convenience and course of business of a group of banks is to be decisive as respects the proper boundaries of a district.

The other considerations which the Committee was compelled to give in designating the districts are best described in the decision itself:

"Among the many factors which governed the committee in determining the respective districts and the selection of the cities which have been chosen were:

"First. The ability of the member banks within the district to provide the minimum capital of \$4,000,000 required for the Federal reserve bank, on the basis of 6 per cent of the capital stock and surplus of member banks within the district.

"Second. The mercantile, industrial, and financial connections existing in each district and the relations between the various portions of the district and the city selected for the location of the Federal reserve bank.

"Third. The probable ability of the Federal reserve bank in each district, after organization and after the provisions of the Federal reserve act shall have gone into effect, to meet the legitimate demands of business, whether normal or abnormal, in accordance with the spirit and provisions of the Federal reserve act.

"Fourth. The fair and equitable division of the available capital for the Federal reserve banks among the districts created.

"Fifth. The general geographical situation of the district, transportation lines, and the facilities for speedy communication between the Federal reserve bank and all portions of the district.

"Sixth. The population, area, and prevalent business activities of the district, whether agricultural, manufacturing, mining, or commercial, its record of growth and development in the past, and its prospects for the future."

How close the Committee came to secure for the Minneapolis bank the necessary \$4,000,000 capital will be seen from the following figures:

The paid in capital of the bank when it began business November 16th was \$808,301.92, representing subscriptions to the

amount of \$4,849,811.52. These have since been increased to \$4,889,496.00; they represent the smallest capital of any of the twelve reserve-banks, with the exception of the Bank of Atlanta (United States Securities, Government Finance, Federal Reserve Organization, 1914). The present subscriptions of the banks in the territory sought to be detached amount to \$499,100; the subscriptions of the banks in the Northern Peninsula of Michigan, to \$265,896.00. If the territory covered by the petition should be detached, it would leave a margin over the required capital of only \$300,596; and if the Peninsula were also detached the margin would be only \$124,700. Considering the provisions in the Act for withdrawal of stock in proportion to reductions of capital and surplus, it seems clear that the district should not be made smaller and the capital cut closer to the minimum than it is at the present time.

V.

We shall now call attention to the specific grounds urged in support of the appeal.

(1) Better and cheaper rail communications.

Better railroad passenger service on the whole is admitted; the railroads, generally, run in lines more direct to Chicago than to Minneapolis. Cheaper railroad transportation is doubtful. The middle of the boundary between Marathon and Shawano counties is about the center of the Northeast Wisconsin district. It will be found that this point is about fifty miles nearer to Minneapolis than to Chicago. Moreover the time and expense of railroad travel is of no importance, for business with the reserve banks is not transacted by personal attendance.

(2) Cheaper telephone and telegraph rates.

No facts are given in support of this claim, nor have we reliable data at hand, but considering the average shorter distance to Minneapolis, there is probably no substantial differ-

ence in the rates. If there is, a proper adjustment will not leave them unfavorable to Minneapolis.

(3) Far superior mail service.

The mail service at present between Minneapolis and the forty-three places in the district in question with member banks is now such that, with the exception of four towns (Brillion, Dale, Peshtigo and Waupaca) letters mailed at these places in the afternoon are delivered in Minneapolis the following morning, and vice versa. The mail service to Chicago from some of the points is slightly faster, but that is of little practical importance. The over-night mail service accommodates the banks in the district for their business with the Reserve Bank the same as if they were located thirty, forty or fifty miles from Minneapolis.

(4) Higher rates for re-discount at Minneapolis.

On thirty-day paper the re-discount rate is now the same at Minneapolis and Chicago; on sixty and ninety-day paper the rate at Minneapolis is one-half per cent higher. The discount rate, however, is always subject to the approval of the Reserve Board; and there is no reason to expect that the rate will be permanently higher at Minneapolis. In this connection we note as an interesting fact that on the date of the writing of this brief, the total re-discounts of the Reserve Bank amount to \$341,206.16, of which \$277,256.16 are from the member banks in the territory affected by the appeal.

(5) The Wisconsin banks in the Seventh District cannot take farm mortgages in the northern part of Wisconsin.

That is true. But the Wisconsin banks in the Ninth District want and can take more farm mortgages than they can get from Northern Wisconsin; in fact, they are the only banks in the Ninth District that take the farm mortgages from Western Minnesota, South and North Dakota and Montana, to any considerable extent. There is some proof of this in the petitioner's brief. "Of the eight (banks) not signing the petition," says

Counsel, "some give as a reason for not signing that they are making farm loans in North Dakota and if in the Seventh District they could not make such loans" (pp. 11-12).

For a clear and terse statement of the facts having a bearing on this point, we quote from a letter of February 17th from the Commercial National Bank of Fond Du Lac, located on the very border of the Seventh District :

"The officers of this bank are not in sympathy with the effort that is being made to have our district changed. We think that all the unrest in this district has been caused by Milwaukee. They, I am sure, feel that if middle and southern Wisconsin are added to the Seventh District that in time Milwaukee can be a branch, when such time comes. We feel that it is to our interest to remain in the Minneapolis District for the reason that all our northern Wisconsin, Minnesota, North and South Dakota and Montana farm loans can be made at a very much higher rate than can be secured in the Chicago district. We will be able to help just the class of people that need help from the strong banks of Wisconsin. Chicago now is the second largest Federal Reserve Bank, and they do not need us at all, while Minneapolis does. As far as doing business with Minneapolis is concerned, it is just as convenient for us to do it with Minneapolis as it is with Chicago. Our mail goes out from here at night and is in Minneapolis in the morning, the same as Chicago."

To this we add a quotation from a bulletin sent out by the North Dakota Bankers Association March 30th, upon learning of the movement to have Northeastern Wisconsin detached from the Ninth and added to the Seventh District :

"The question naturally arises, how would such a change affect the banks of North Dakota? North Dakota real estate mortgages can be carried, under the Federal Reserve Bank law, as legal assets of any Member Bank located in the Minneapolis District and a market is therefore open for such mortgages in any member bank in that part of Wisconsin now a part of the Minneapolis District. Should the counties in Wisconsin be transferred to the Chicago District North Dakota mortgages could not be placed with member banks located in such counties, thereby diminishing very largely the available funds for investment in our mortgages. There are thirty-four counties in Wisconsin embraced in the proposed change and it would seem to be advisable that the banks in North Dakota should take an

active part in a campaign to have the banks in that territory remain in the Minneapolis District.”

Upon the foregoing it is submitted (a) that the Board should not entertain the appeal, but dismiss it; and (b) that the Organization Committee was justified in fixing the present boundaries of the Ninth District, so that no change should be made on a review of the merits of its decision.

JOHN H. RICH,
*Representative of The Federal
Reserve Bank of Minneapolis.*

A. UELAND,
Counsel.