

HG+
2562
D7B33

Before the Federal Reserve Board.

**IN THE MATTER OF THE PETITION OF
BANKS IN EASTERN WISCONSIN TO
BE DETACHED FROM THE NINTH
AND ANNEXED THE SEVENTH FED-
ERAL RESERVE DISTRICT.**

**Brief for John H. Rich as Representative of the
Federal Reserve Bank of Minneapolis and
Member Banks, and for Certain Mich-
igan Member Banks as Interven-
ors, on Informal Hearing
August 8, 1916.**

**A. UELAND,
Counsel.**

Review Publishing Company, 225 So. 3rd St., Minneapolis

HG+
2562
. D7B33

Before the Federal Reserve Board.

IN THE MATTER OF THE PETITION OF BANKS IN
EASTERN WISCONSIN TO BE DETACHED FROM THE
NINTH AND ANNEXED THE SEVENTH FEDERAL
RESERVE DISTRICT.

**Brief for John H. Rich as Representative of the
Federal Reserve Bank of Minneapolis and
Member Banks, and for Certain Mich-
igan Member Banks as Interven-
ors, on Informal Hearing
August 8, 1916.**

Section 2 of the Federal Reserve Act directed the Reserve Bank Organization Committee to divide the continental United States, excluding Alaska, into districts with the proviso

"That the districts shall be apportioned with due regard to the convenience and customary course of business."

The same section provides that

"The determination of said organization committee shall not be subject to review except by the Federal Reserve Board,"

and that

"The districts thus created may be readjusted and new districts may from time to time be created by the Federal Reserve Board, not to exceed twelve in all."

To enable the Organization Committee to carry out this important task the section provided that

"Said organization committee shall be authorized to employ counsel and expert aid, to take testimony, to send for persons and papers, to administer oaths, and to make such investigation as may be deemed necessary by said committee in determining the reserve districts." • • •

JUL 20 1923 recd.

The Organization Committee filed its decision April 2, 1914, designating the territory which was to constitute the Ninth District, and among other things said:

"The Committee held public hearings in eighteen of the leading cities from the Atlantic to the Pacific and from the Great Lakes to the Gulf and was materially assisted thereby in determining the districts and the reserve cities. * * *

The majority of the Organization Committee, including its Chairman and the Secretary of Agriculture, were present at all hearings, and stenographic reports of the proceedings were made for more deliberate consideration. 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 to provide the minimum capital of \$1,000,000 required for the Federal Reserve bank, on the basis of six per cent. of the capital stock and surplus of member banks within the district. * * *

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

Under this decision and the mandatory provisions of the Act, the Federal Reserve Bank of Minneapolis came into being with all the attributes of a banking corporation. It has been made to consist of 748 shareholding banks, with a present subscribed capital of \$5,163,900, of which \$2,581,950 have been paid in.

To detach territory from this district would be to take shareholders and capital from the corporation. This would affect the property rights of the remaining shareholders. The ability of the bank to pay dividends on the stock depends on earnings, and earnings depend on expense. The expense is relatively higher on smaller capital. Detaching territory involves, hence, a special pecuniary interest of the shareholding banks. The proceeding should therefore be of a judicial character. The Board is an administrative board; but when the law commits to an administrative board the power to determine that in which private parties have an interest different from the general public, it requires the board to proceed and act in a judicial manner and subjects its proceedings to review by the courts on

certiorari (7 *Cyc.* 739-740, and cases cited). Under Section 716 of the Revised Statutes and Section 262 of the Judiciary Act of March 3, 1911, there can scarcely be any question but that the Federal courts have jurisdiction to review the action of this Board in the present proceeding. (*In re Tampa Suburban Railroad*, 168 U. S. 583, 587.)

Now this was manifestly recognized by this Board when, on August 21, 1914, it promulgated Rules of Procedure in Appeals from Decision of the Reserve Bank Organization Committee. With respect to a review of the geographical limits of districts, these rules require a petition

“Signed by duly authorized officers 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”;

that

“such petitions must set forth briefly the grounds and reasons relied upon for such review”;

that

“within five days after mailing said petition the petitioners shall file copies of a brief setting forth fully the grounds relied upon for a review of the action of the said Reserve Bank Organization Committee”;

that

“the Secretary of the Board shall notify all member banks in the Federal reserve city of the district in question that such petition has been filed”;

that

“the Board of Directors of the Federal Reserve Bank * * * shall select the representative to appear and answer the petition”;

that

“said representative shall be given seven days within which to file twenty copies of his brief in reply”;

that

“the Federal Reserve Board will thereupon fix a date for the hearing of oral arguments by counsel, which arguments will be limited to one hour upon each side”;

and that

“the Board will not hear testimony, but the parties will be limited to the record before the Organization Committee.”

In accordance with these rules, petition was filed March 13, 1915, to review the Organization Committee's decision in having included in the Ninth District thirty-four counties in Eastern Wisconsin, claiming they should have been placed in the Seventh District. These counties had and have sixty-one member banks, whose subscription to the capital of the Reserve Bank for the Ninth District is \$503,700. The petitioners were represented by Henry I. Weed, Esq., of Oshkosh, as counsel. Notice was given, briefs filed, and hearing set in accordance with the rules. Mr. John H. Rich, the reserve agent and chairman of the Board of Directors of the Reserve Bank, was selected as the representative to answer. He did so and appeared by counsel at the hearing, which was held May 20, 1915.

The hearing was conducted in accordance with the rules, that is to say on oral arguments by the counsel on each side and without taking testimony. As the petition contained the signature of only three member banks, and it was claimed that slips, which had evidently been signed by banks in the course of a long period preceding the filing, should be counted to make up the requisite two-thirds, letters from fifteen of the banks which had signed such slips were filed, showing that they were satisfied to remain in the Ninth District (some showing they had forgotten signing the slips). These fifteen banks, at all events, could not reasonably be counted as petitioners. The letters referred to are still on file with the Board, marked Ex. A 1-15.

Including these fifteen banks and those who had signed similar slips, counsel for the petitioners claimed fifty-three out of sixty-one of the banks in the territory covered by the petition, but not counting the fifteen, he had really only thirty-eight out of sixty-one, or less than the two-thirds required by the rule.

This was pointed out on the hearing; and it was also argued that the petition could not be granted inasmuch as the effect would be to cut the Ninth District into two separate parts, one the fifteen counties constituting the Upper Peninsula of Michigan with its thirty-one members banks, holding \$264,000 of the

subscribed capital stock, the other the territory west of the thirty-four Wisconsin counties included in the petition.

After more than a year's deliberation the Board on May 25, 1916, decided the matter adversely to the petitioners. The decision, as published in the Federal Reserve Bulletin for June, page 264, reads:

"Upon consideration of the petition of certain banks in Wisconsin that the geographical limits of districts Nos. 7 and 9 be modified so as to include in district No. 7 a part of the territory now included in district No. 9, and

After a full investigation of the matter, the Federal Reserve Board has arrived at the conclusion that there is no present necessity for any change in the geographical limits of said District Nos. 7 and 9 at this time.

It is ordered that said petition be dismissed without prejudice to the rights of the signers to file an amended petition at a later date."

On July 26, 1916, the representative of the Federal Reserve Bank of Minneapolis and its shareholding banks was advised by telegram from the Governor of the Board that

"Board today voted re-open petition filed by certain Wisconsin banks for transfer from Ninth to Seventh Reserve District. Informal hearings of oral arguments Washington, August eighth, three p. m. No briefs are necessary, but may be filed if any desires. Applications of banks in Northern Peninsula of Michigan desiring to intervene in this petition will also be considered at this time."

This could only mean that the Board had granted a re-argument of the petition in accordance with the rules, and that upon such re-argument Michigan member banks were at liberty to intervene in support of the position or in opposition to it.

Judging from the language of the decision, the re-argument was not granted on the Board's own motion, but on the application of some one. Who that was, the counsel for the opponents did not know until in the course of the hearing it appeared to have been a committee of Milwaukee bankers (Tr., p. 5). Counsel, therefore, came to the hearing expecting to re-argue the petition against counsel for the petitioners in accordance with the rule against considering testimony other than that taken

by the Organization Committee. He was naturally surprised not to find counsel for the petitioners in attendance, and to find in his place the two senators and four members of the House from Wisconsin; also to find a majority of the banks represented to be from the Seventh District.

The statements of fact made at the hearing came principally from Milwaukee bankers, and had little bearing upon the question raised by the petition, namely, whether or not the sixty-one banks in the particular thirty-four Wisconsin counties were well or ill served as members of the Federal Reserve Bank of Minneapolis. The burden was that the Milwaukee banks had lost, or would lose, country-bank deposits as a result of the present division between the Seventh and Ninth districts.

The scope of the review invoked by the petition was ignored. Thus it was suggested that the Upper Peninsula should also be detached from the Ninth District; and if this could not be done, that Iron and Ashland counties, included in the petition, should be left in the district as a connecting link between the Peninsula and the rest of the district, and that Buffalo, Trempealeau and La Crosse counties, not included in the petition, should be detached instead and annexed to the Seventh District (Tr., p. 10). This was outside the inquiry raised by the petition. It not only brought in different and wider territory, but presented different "grounds and reasons." In the petition, the interest of the petitioning banks were the only grounds urged; here the interest of the banks in the Seventh District, especially the banks in Milwaukee, was made the predominant factor.

The opening of the petition on the *ex parte* application of strangers to the record; the disregard of the decision in proceeding without an amended petition; the bringing into the review new territory without notice and opportunity to answer—was inconsistent with the methods employed in judicial or quasi-judicial inquiries, however informal.

There can be little doubt but that the success of the Federal Reserve System depends in large measure upon the respect and

ungrudging acquiescence that will be given to the Board's rulings and decisions. Of this the Interstate Commerce Commission, that other great national board, is a striking illustration. Its decisions rank well with those of our higher courts, and its authority and usefulness are everywhere recognized. Such, however, would not be the case if its proceedings and decisions were not essentially of a judicial character, both in form and fact. Obviously this Board must not sanction a practice tending to deprive its decision of equal authority with those of that Commission. To do so at the outset would prove particularly pernicious, as a precedent would be established which would be frequently invoked. Sanctioned here, why should not bankers and delegations in Congress at any time importune the Board for acquisition of territory in utter disregard of the Board's rules and decisions?

The Board is, therefore, earnestly urged to let the decision stand unchanged and not to entertain the matter again unless it is brought up in the manner provided by the leave granted.

The order opening the petition says that

"Application of banks in Northern Peninsula of Michigan desiring to intervene in this petition will also be considered at this time."

Whether by this was meant that the banks would be heard as to whether or not they objected to the thirty-four Wisconsin counties being detached from the Ninth and annexed to the Seventh District, or that the Board would hear and consider whether the Peninsula, or part of it, should also be detached, is not clear.

The Michigan banks, however, as far as informed, seem to have understood it in the latter sense, for the so-called referendum vote, to which attention was called at the hearing, showed eight voting in favor of a transfer to the Seventh District and the remaining twenty-three either to have abstained from voting or to have voted against a transfer (Tr., 179).

The eighth, and one more, were represented by Mr. Bissell at the hearing (Tr., 44). They were all from the four southern-most counties—Menomonee, Delta, Dickinson and Iron. Of the remaining twenty-two from the other eleven counties, eleven went on record by counsel and one by direct communication to the Board against transfer (Tr., 58, 67, 68, 157, 158, 167). Why ten did not vote or intervene, one way or the other, may be explained by the letter of Mr. Black of August 4th. He says:

“I have talked to quite a number (of the Michigan member banks) and some of them say that inasmuch as they were not advised of the re-opening of this matter by Governor Hamlin, they do not feel called upon to write him. They say further that on account of their not signing and sending in the resolution sent them by the Milwaukee banks they most certainly are not committed to a change” (Tr., 62).

Mr. Black says:

“For the past two days Mr. E. J. Hughes, vice-president of the First National of Milwaukee and Mr. Frederick K. McPherson, assistant cashier Wisconsin National of Milwaukee, have been in Houghton County trying to persuade the member banks to join them. They met with no success here and admitted they had very little success in Michigan. They requested the local banks to call a meeting but this request was not granted” (Tr., 62).

That the following from the Houghton Morning Gazette gave an accurate description of the situation on the Peninsula, past and present, was not questioned at the hearing:

“The national banks of the Copper Country that are affiliated with the ninth federal reserve district, the headquarters of which are in Minneapolis, prefer to retain this connection. In substance, this was the information given to Walter Hughes and ‘Sandy’ McPherson, assistant cashiers of the Wisconsin National and First National banks both of Milwaukee, respectively, by bank officials of Houghton county this week. The Milwaukee men came here as representatives of the bankers’ association of Milwaukee in an effort to induce them to affiliate with the Chicago reserve bank. The mission was without success and the Badger state bankers have returned to their homes.

Since the federal reserve bank act has been in effect, the banks of upper Michigan have been members of the Minneapolis district. Efforts were made, however, immediately after the measure became effective, to alter the district so as to make the upper peninsula a part of the Chicago bank but this failed. In the meantime, the national banks have become familiar with the system and its organization is thorough. No advantage could be gained at this time from affiliating with Chicago, local bankers hold, and because of this, the Milwaukee men received no encouragement.

While the upper peninsula is more closely connected with Chicago than Minneapolis through trade relations, and membership in the Chicago district would have been preferred when the reserve bank act went into effect, there is no desire to change from Minneapolis" (Tr. 65).

As respects the Peninsula, three things must be perfectly clear to the Board:

First: When the Organization Committee in April, 1914, placed its fifteen counties in the Ninth District, its thirty-one national banks preferred to be attached to the Seventh District.

Second: As a result of actual experience since November 16, 1914, when the reserve banks commenced business, at least two-thirds of the thirty-one banks have changed their views and prefer now to remain in the Ninth District, and this notwithstanding the vigorous propaganda carried on by Milwaukee banks.

Third: The Organization Committee, therefore, made no mistake in placing the Peninsula in the Ninth District, and to detach it from the district at this time, by way of a review of the Organization Committee's work, would be to entertain and sustain an appeal without appellants.

This may fairly be said notwithstanding the position of the nine banks in the four counties (in all probability a result of the aforesaid propaganda), for it is assumed that the Board would not seriously consider cutting up the Peninsula between the two districts.

To do so because of the referendum vote of the eight banks in Dickinson, Iron, Mackinac and Menomonee counties would be

like detaching some of the thirty-four Wisconsin counties and let the counties of Fon du Lac and Green Lake remain—the counties which are nearest to Chicago—because five of the member banks in those counties voted against transfer and only two in favor.

So much for the intervention of the Michigan banks.

It is taken for granted that the Board will not consider taking from the Ninth District, as suggested on the hearing, Buffalo, La Crosse and Trempealeaus counties in Wisconsin, not only because these counties were not part of the territory covered by the petition but because on the referendum vote their six member banks were unanimous against transfer (Tr., 177, 178).

The Peninsula showing throws a flood of light on the real situation in the district under review. If a line is drawn from the southernmost point of the Peninsula to La Crosse County, Wisconsin, it will show that from one-half to two-thirds of the district lies between the Peninsula and the undisputed territory of the Ninth District. It goes without saying that the banks in that portion of the district must be as well, if not better, served than the banks on the Peninsula, being all nearer to Minneapolis. It is true that here the Milwaukee propaganda has proved more successful, for the referendum vote shows a considerable majority in favor of transfer. But that vote, influenced by outside agitation and solicitation, does not mean much. When a person is indifferent his signature can always be procured to a petition. How accommodating people are in this respect is well expressed by the saying that you can readily get a man to sign a petition for his own hanging.

How little real grievance the petition and referendum vote express is shown by one of the incidents at the hearing.

The member banks throughout the district have for twenty-one months transacted such business with the Reserve Bank of

Minneapolis as the Act contemplates. During this period they have been the subjects of an agitation fostering criticism and fault-finding in the highest degree. Still not one of them could at the hearing give a single instance in which business with the Reserve Bank at Minneapolis had not been transacted as conveniently and satisfactorily as it could have been done with the Reserve Bank at Chicago.

The only definite attack on the Organization Committee's decision is that the Committee did not give "due regard to the convenience and customary course of business." In the arguments for the petitioners the language of the Act is treated as though it read "*sole* regard" instead of "*due* regard." The arguments imply that in apportioning districts to each of the Federal reserve cities all the Committee had to do was to draw meander lines defining the boundaries of the customary course of business in the different parts of the country. The fallacy of this is too apparent to require any comment. The Act made it the Committee's duty to establish from eight to twelve Federal reserve cities and districts and a reserve bank for each with a capital of not less than \$4,000,000, no matter what the convenience and customary course of business might be.

The merit of the present appeal depends, hence, upon whether the Committee, in attaching the thirty-four Wisconsin counties to the Ninth District, failed to give such consideration to the convenience and customary course of business as it reasonably could and did do in apportioning districts to the *several* Federal reserve cities.

A glance at the map of the twelve districts must be sufficient to convince the Board that in many instances the Committee was obliged to let the customary course of business yield to other consideration to a much greater extent than was done here. Attention is called to the following in proof of this statement.

In its brief before the Organization Committee, the City of

Seattle, comparing the course of business in the North Pacific Coast territory and the course of business in the Southwestern United States, asserted that

“The provision that districts shall be created with due regard to convenience and the customary course of business, if regarded as controlling by your committee, would naturally preclude the joining of two great geographical sections (the North and South Pacific Coast territory), only ten per cent of whose commerce and trade is mutual.” (Senate Doc. 485, p. 335.)

The northern transcontinental lines directly connect the North Pacific Coast, including the State of Washington, the northern portion of Oregon, the northern half of Idaho, with the Ninth District, and the trend of commercial and banking business is eastward and not southward. As pointed out in the brief of the City of Seattle, but one railroad line connects the North Pacific Coast with San Francisco. Quoting further, the brief says:

“From the standpoint of actual mail service, Seattle and Spokane are as distant from San Francisco as St. Paul, Omaha, Kansas City and New Orleans are distant from New York. We maintain that to place the Northwest states in a San Francisco district, in the absence of a reasonable degree of commercial identity, and with so much of remoteness and delay in communication, would be in violation of the spirit and intent of the Federal Reserve Act. In all the western states, the trend of business and banking connections is east and west, and not north and south” (p. 337).

It therefore appears that if the Board should detach a part of Wisconsin from the Ninth District, and add it to the Seventh District, it would for the same reason have to detach the North Pacific coast territory from the Twelfth District, and annex it to the Ninth.

In the brief of the City of Denver before the Organization Committee, it is clearly pointed out that the State of Utah is divided off from the Pacific Coast region by formidable mountain ranges and great expanses of desert, and to suit conven-

ience and customary course of business, should be allowed to look eastward and not westward for its reserve bank center (pp. 129, 130). Utah was, however, attached to the Twelfth District, although its trend of business is eastward towards the Tenth District and the Reserve Bank of Kansas City. If the Board is to apply the argument of the customary course of business as justification for the transfer of a portion of Wisconsin to the Seventh District, it would in equal justice have to entertain a claim of Utah for transfer to the Tenth District.

In Kansas City's brief before the Organization Committee, it was pointed out that Kansas City's natural banking territory includes the northwestern triangle of Arkansas, comprising about one-third of that state, including fourteen counties; the southwestern quarter of Iowa, including seventeen counties; the western one-third of Missouri, comprising forty-five counties, and the northern one-third of the State of Texas, comprising one hundred and thirteen counties (pp. 173, 175). No part of this area of one hundred and eighty-nine counties, except a few western Missouri counties, was included in the Tenth District, nor was the southern half of Oklahoma, which is represented in the brief referred to as also being a part of the natural commercial and banking territory of Kansas City. It would therefore appear that if the consideration of the customary course of business should justify the Board in transferring a portion of the Wisconsin territory from the Ninth to the Seventh District, the Board would, in justice, and because of precisely the same considerations, have to transfer the territory just referred to, which is now a part of the Seventh, Eighth and Eleventh Districts, to the Tenth District.

Again, it appears that Detroit, and the adjacent portion of Michigan, was attached to the Seventh District, although it is well recognized that the trend of business from Detroit is easterly toward the Reserve Bank of Cleveland. Cleveland, in its brief, represented to the Organization Committee that nineteen

counties in this section of Michigan, including Detroit, Lansing, and Bay City, should in consideration of the customary course of business, be assigned to the Cleveland District (p. 91).

In these and many other instances, it is clear that the Organization Committee was unable to fix the boundaries of each district in accordance with the customary course of business between all points in the district and its Federal reserve city. Far less was the Committee able to fix the boundaries in accordance with the customary course of business between points in each district and cities not Federal reserve cities, such as is claimed should have been done here as between the thirty-four Wisconsin counties and the city of Milwaukee.

If that city on the score of customary course of business has a claim on the thirty-four counties in question for the Seventh District, so has New Orleans a claim on the greater parts of Louisiana and Texas for the Sixth District; Cleveland, on much of Indiana and Kentucky for the Fourth; Denver, on Utah, Nevada, and Arizona for the Tenth; Sioux City, on considerable of South Dakota for the Seventh; Omaha, on considerable of Iowa for the Tenth; Frankfort, on the eastern half of Kentucky for the Eighth, and so on, almost indefinitely. And should the customary course of business be the decisive factor, where would be the limit to the claim of New York City for the Second District?

One of the evils the Federal Reserve Act was intended to remedy was the concentration on a vast scale in the great cities, especially in New York, of the reserves and idle funds of the banks all over the country, resulting in speculation, periodical contraction of credit, and panics. The remedy was to consist in dividing the continental United States into from eight to twelve districts with a Federal reserve bank in each, and to compel the national banks, in course of time, to keep their entire legal reserves in the Federal reserve banks of their respective districts, or in their vaults. Incidentally the banks created were to accommodate their member banks by way of re-dis-

counts, collections and clearings, so as to relieve them of the necessity of going to the great financial centers with that business. In selecting the twelve reserve cities and carving out for each a district, the Organization Committee had therefore to deal with questions of transcendent national importance, compared to which the convenience of a few hours faster railroad and mail communication in small localities was a matter of slight importance.

The Committee was compelled to make each district sufficiently large to provide for its bank a subscribed capital of not less than \$4,000,000; and to carry out the purposes of the Act, in spirit as well as in letter, it was plainly justified in seeking to procure "the fair and equitable division of the available capital for the Federal reserve banks among the districts created," as stated in its decision of April 2, 1914.

When that decision was filed, the capital and surplus of the national banks in the territory designated as the Ninth District was only sufficient to give the reserve bank of that district a subscribed capital of \$4,702,865—the next lowest of any of the twelve Federal reserve banks—while the capital and surplus of the banks in the territory designated as the Seventh District gave the reserve bank of that district a capital of \$12,664,100—the next highest of any of the twelve banks (See decision of Organization Committee). In carving out districts with a view to securing the minimum capital, the Committee had to take as a basis the capital and surplus of the banks which had then accepted the provisions of the Act (See Committee's decision). On that basis the Committee was compelled to take into the Ninth District a considerable part of the thirty-four Wisconsin counties, because without those counties and the Michigan territory lying beyond, six per cent on the capital and surplus of the banks in the remaining part of the district which had then accepted the provision of the Act would have been insufficient to make up the \$4,000,000. It is true that by November 16, 1914, the subscriptions of the banks in the Ninth Dis-

trict outside the thirty-four Wisconsin and fifteen Michigan counties was \$1,124,700, but this increase was something that the Committee could not foresee or rely upon. It could only act and rely upon what the acceptances of the Act previous to its decision disclosed.

The Board must not lose sight of the fact that it is a review of the Organization Committee's decision which is now before it. When the Act provides that

"The districts thus created may be re-adjusted and new districts may from time to time be created by the Federal Reserve Board,"

it contemplates something very different from the review of the determination of the Organization Committee which the Board was authorized to make "when organized." The Act contemplates that the power to adjust districts and create new districts is to be exercised when conditions arise different from those on which the Organization Committee acted. Such condition cannot be said to have arisen until the complete result of the Organization Committee's work has been seen. We have not seen that yet. As already stated, one of the important features of the Federal reserve system is to have the Federal reserve banks a medium for collections and clearing, a function of such importance to the member banks that the advantages and disadvantages of their location under the Organization Committee's designation of districts cannot be determined with any degree of certainty until the collection and clearing system, not inaugurated until the 15th of July last, has had a fair trial. If the statements before the Board at the hearing showed anything it is that this collection and clearing system, with the arrangement for immediate credit for Milwaukee checks, makes it immaterial for the banks in eastern Wisconsin whether they belong to the Seventh or to the Ninth District.

The attached chart will show how the question of a proper boundary between the Ninth and Seventh districts must have

presented itself to the Organization Committee. The circle around Minneapolis is drawn so as to represent the distance from that place to the easternmost point of the district in question. It will be seen that the same distance in a westerly direction takes in only the southwest corner of North Dakota and less than one-third of the eastern part of South Dakota, leaving two-thirds of South Dakota, four-fifths or more of North Dakota and the entire state of Montana further away from the bank than any point in the thirty-four Wisconsin counties.

Assuming that the Committee was justified in not extending the Ninth District into Idaho, Wyoming, Nebraska or Iowa, it was compelled to take in a considerable part of the thirty-four counties to get the minimum capital, figured upon the acceptances of the Act then at hand. The chart will show that in many instances the Committee had to place localities of importance from three to four times further away from their Federal reserve bank than was done as to any portion of this Wisconsin territory.

The re-hearing was procured by the Milwaukee banks, not by the petitioning banks. It is in the interest of the former, real or supposed, that the matter is now brought up in the manner stated in the first part of this brief. The real ground for urging a detachment of Wisconsin territory is not that the banks there are not well served by being in the Ninth District, but that their connection with the Federal Reserve Bank of Minneapolis has a tendency to deprive Milwaukee banks of a patronage previously enjoyed in the "customary course of business." Whether this claim is well founded in fact is certainly doubtful; at any rate it is not proven, for in no statement before the Board is there anything to show that the Milwaukee banks are not as well patronized today by the country banks in question, or by other business interests in the district, as they were before the Ninth District was created. Be this as it may, it cannot for a moment be conceded that a tendency to

divert the reserves and idle funds from banks in the Seventh to banks in the Ninth District is to weigh in favor of enlarging the Seventh and diminishing the Ninth, for, as already stated, the unmistakable purpose of the Act was to accomplish that very result.

This claim of Milwaukee, the propaganda carried on in its support, the procedure in defiance of the Board's rules and decision by which it is pressed on the Board for action, and the aspect given to the advocacy employed, make the decision which the Board will make as a result of the hearing on the 8th and 9th of August a matter of national concern, not a mere local affair. For if the Milwaukee contention prevails, the Board will stand committed, irrevocably, to a consideration of changes in the district boundaries fixed by the Organization Committee on similar claims, procedure, and advocacy. Should the Board not let its decision of May 25th stand, it will have extended to New Orleans, Cleveland, Denver, Sioux City, Omaha, Frankfort, New York, and a good many more cities, an invitation to attack the district boundaries fixed by the Organization Committee in order to obtain territory for the districts in which they are respectively placed, without the slightest regard to the Board's rules and decisions, and to bring to the support of such attacks the influence of *their* representation in Congress. It must be apparent that if this is to become the method of reviewing the Organization Committee work, and such the real parties to appeals, the Federal reserve system will suffer a setback which it will be hard to retrieve.

The Organization Committee displayed shrewd judgment in including within the Ninth District the wealthy lending communities of Michigan and Wisconsin as well as the large and rapidly developing borrowing communities of Northern Minnesota, the Dakotas and Montana, believing undoubtedly that the best interests of the Federal Reserve Bank to be created, demanded a balanced district, containing banks not normally in need of

accommodation as well as banks which did. It also paid proper attention to the desirability of creating an outlet in Michigan and Wisconsin for the desirable farm loans of the borrowing section of the district. The necessity for a balanced and well proportioned district still exists. The removal of the lending Wisconsin or Michigan territory, taking from the Reserve Bank of the district more than \$2,700,000 of paid-in capital and reserve deposits, would impair, if not largely destroy, this balance and proportion.

The removal of so large a sum would increase the capital and deposits of the Reserve Bank of the Seventh District, which has no need of the additional lending power and strength involved, and impair the membership, strength, prestige and lending power of the bank of the Ninth District, to which such a loss would be of serious importance.

The Organization Committee located the bank for the Ninth District close to the center of population of the district. A reduction of territory, especially when involving its most densely populated part, would destroy this condition, removing the center of population, now close to Minneapolis, to a point much farther west.

The question of the wisdom and business judgment of the Reserve Bank Organization Committee in establishing the boundaries of the Ninth Federal Reserve District, as at present defined, is forcibly presented in this case.

In considering what the service of a reserve bank to its members might be, the Organization Committee undoubtedly gave precedence to elements of a tangible and practical business character, rather than to considerations of sentiment, arising out of old business associations.

Among such practical considerations was the ability of member banks, located within a proposed reserve district, to enjoy direct railroad, telegraph, telephone and mail communication with the proposed reserve bank city, and the ability of such member banks to expeditiously transact their business in con-

nection with the re-discount of paper, without being subjected to delay or inconvenience.

It undoubtedly felt the obligation of combining within a reserve district, territory which from the standpoint of banking and commercial activities would present a harmonious unit.

It does not appear, after twenty-one months of operation of the Federal Reserve Bank of Minneapolis, that the Organization Committee erred or failed to fully carry into effect the provisions of the law in the creation of the Ninth Reserve District. No question of the customary course of business has arisen with respect to any portion of the district, except territory in Wisconsin. The transcript of the hearing on August 8th and 9th discloses no testimony that any member bank has not been well and adequately served, or that any bank, in its transactions with this Reserve Bank, is at a disadvantage. The ability of the Federal Reserve Bank of Minneapolis to extend better service to its Wisconsin members than to its Montana and many of its North and South Dakota members, located as a distance up to three times as great, must be sufficient evidence that the Organization Committee so located the Reserve Bank for the Ninth District as to give it the ability to serve all of its members promptly and efficiently; and that having no authority to establish more than twelve districts, its decision was, in view of all the considerations, wisely made. In proof of the sound judgment of the Organization Committee, it may be mentioned that the Federal Reserve Bank of Minneapolis has been able to readily adjust the details of its service to the satisfaction of all of its member banks, wherever located, and that it has received no complaints that any member is at an inconvenience in the transaction of its business with the Reserve Bank.

A. UELAND,
Counsel.