

**FEDERAL RESERVE BANK  
OF NEW YORK**

*Check Department*

[Circular No. 309, October 15, 1920  
Supplement to Circular No. 258, en-  
titled "Collection of Checks," dated  
March 1, 1920 as supplemented by  
Circulars No. 278 of May 17, 1920 and  
No. 286 of June 1, 1920.]

*See also 331, 340, 343, 345.*

## Omission of Protest of Checks in Certain States

*To all Member Banks in the Second Federal Reserve District:*

Your attention is directed to the appended laws enacted by the States of Louisiana, Mississippi and South Dakota regarding the charging of exchange for the payment or remittance of the proceeds of checks. You will observe that they contain provisions purporting in effect to prohibit notaries public or other State officers within their respective jurisdictions from protesting for nonpayment any cash item, if nonpayment is due solely to the refusal of the collecting bank or other collecting agency to pay exchange.

While these statutes are in effect it will be impossible for the Federal Reserve Bank of New York to require compliance with the protest instructions set forth in its circular No. 258, entitled "Collection of Checks," dated March 1, 1920, should a bank or banks in Mississippi, Louisiana or South Dakota fail to honor checks because of the refusal of our collecting agent to pay exchange. It must be understood, therefore, that any checks that we accept drawn on banks located in those states will be forwarded by us subject to the omission of protest. In conformity with our circular No. 258, we will continue to request telegraphic advice of non-payment of items of \$500. or over.

With respect to omission of protest you will no doubt have in mind the following provisions of the uniform Negotiable Instruments Law, which we are informed are in force in the three states mentioned:

*Section 185. Check Defined.*—A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this act applicable to a bill of exchange payable on demand apply to a check.

*Section 129. Inland and Foreign Bills of Exchange.*—An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this state. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

*Section 152. In What Cases Protest Necessary.*— \* \* \* Where a bill does not appear on its face to be a foreign bill, protest thereof in cases of dishonor is unnecessary.

Very truly yours,

J. H. CASE,

*Acting Governor*

## STATUTES REGARDING PAYMENT OF EXCHANGE AND PROTEST

## Louisiana

*Section 1.* Be it enacted by the General Assembly of the State of Louisiana: That for the purpose of providing for the solvency, protection and safety of the banking institutions of Louisiana, the established custom on the part of the banks of this State to charge a service fee (commonly called exchange) for collecting and remitting by exchange or otherwise the proceeds of checks, drafts, bills, etc., (commonly known among banks as "Cash Items") is hereby declared to be the law of this State, and the banks of this State, both State and national, shall have the right to make such charge as fixed by custom when such "Cash Items" are presented to the payer bank for payment, through or by any bank, banker, trust company, Federal Reserve Bank, post office, express company, collection agency, or by any other agency whatsoever; and the amount of such charge shall not exceed one-tenth of one percentum of the total amount of such "Cash Items" so presented and paid at any one time, and the minimum charge shall be ten cents; provided, however, that no such charge shall be made on checks or drafts given or drawn in settlement of obligations due the State of Louisiana or any subdivision thereof, or of the United States. And that no such charge can be made by banks for the collection of checks deposited with said banks, when the check is drawn on any other bank in the same municipality, city, town or village, this being the long established custom of such banks. And, provided that nothing in this act shall be deemed to be mandatory upon the banks to charge exchange on checks or drafts

payable to a person in this State, and drawn on a bank, trust company or person within or without this State, but it shall be optional with such banks whether they shall charge exchange on checks or drafts payable to a person within this State, and drawn on a bank, trust company or person within or without this State.

*Section 2.* That no officer in this State shall protest for non-payment any such "Cash Items" when such non-payment is solely on account of the failure or refusal of any of said agencies to pay such exchange; and there shall be no right of action, either at law or in equity, against any bank in this State for a refusal to pay such cash item, when such refusal is based alone on the ground of the non-payment of such exchange.

*Section 3.* Be it further enacted, etc., That if for any reason the courts should hold that the national banks in this State are not required to charge and collect such exchange still this act shall remain in full force and effect as to all other banks in this State; and in the event of such holding by the courts, or the refusal of any national bank in this State to comply with this act, then it shall be optional with State banks located in the same municipality with a national bank or State banks which are members of the Federal Reserve System as to whether such charge shall be made.

*Section 4.* Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## Mississippi

*Section 1.* Be it enacted by the Legislature of the State of Mississippi: That for the purpose of providing for the solvency, protection, and safety of the banking institutions of Mississippi, the established custom on the part of the banks of this State to charge a service fee (commonly called "exchange") for collecting and remitting, by exchange or otherwise, the proceeds of checks, drafts, bills, etc. (commonly known among banks as "cash items") is hereby declared to be the law of this State; and the banks of this State, both State and national, shall continue to make such charge as fixed by custom when such "cash items" are presented to the payer bank for payment through or by any bank, banker, trust company, Federal reserve bank, post office, express company, or any collection agency, or by any other agency whatsoever; and the amount of such charge is hereby fixed at one-tenth of 1 per cent of the total amount of such "cash items" so presented and paid at any one time, and not less than 10 cents on any one such transaction; provided, however, no such charge shall be made on checks or drafts given or drawn in settlement of obligations due the State of Mississippi or any subdivision thereof, or of the United States. And that no such charge can be made by banks for the collection of checks deposited with said banks, where the check is drawn on any other bank in the same municipality, city, town, or village, this being the long-established custom of such banks; and provided, that nothing in this act shall be deemed to be mandatory upon the banks

to charge exchange on checks or drafts payable to a person in this State, and drawn on a bank, trust company, or person within or without the State, but it shall be optional with such banks whether they shall charge exchange on checks or drafts payable to a person within this State, and drawn on a bank, trust company, or person within or without this State.

*Section 2.* That no officer in this State shall protest for nonpayment any such "cash item" when such nonpayment is solely on account of the failure or refusal of any of said agencies to pay such exchange; and there shall be no right of action, either at law or in equity, against any bank in this State for a refusal to pay such cash item, when such refusal is based alone on the ground of the non-payment of such exchange.

*Section 3.* That if for any reason the courts should hold that the national banks in this State are not required to charge and collect such exchange, still this act shall remain in full force and effect as to all other banks in this State; and in the event of such holding by the courts, or the refusal of any national bank in this State to comply with this act then it shall be optional with State banks located in the same municipality with a national bank or State banks which are members of the Federal Reserve System as to whether such charge shall be made.

*Section 4* That this act shall take effect and be in force from and after its passage.

## South Dakota

*Section 1.* Be it enacted by the Legislature of the State of South Dakota: That the banks of this State may charge a service fee for collecting and remitting by exchange or otherwise checks, drafts, bills, etc., commonly known as "cash items," and the banks of this State may make such charge when such "cash items" are presented to the payer bank for payment through any bank, banker, trust company, Federal Reserve Bank, Post Office, Express Company, or any collectors agency, or by other agency whatsoever; and the amount of such charge is hereby fixed at one-tenth of one per cent of the total amount of such cash items so presented and paid at any one time, and not less than ten cents on any one transaction, provided, however, that no such charge can be made by banks for collecting a check presented to said banks where the check is drawn on any bank in the same municipality, city, town or village and does not bear an out-of-town endorsement.

*Section 2.* That any officer or notary public who shall protest checks for nonpayment where

payment is refused solely on account of the presenter's refusal to pay exchange, shall be guilty of a misdemeanor, and there shall be no right of action either in law or in equity against any bank in this State for a refusal to pay such cash item when such refusal is based alone on the ground of the non-payment of such exchange.

*Section 3.* That whenever one or more checks on any bank in the hands of a single holder or holders for an aggregate sum exceeding amount of such bank's legal reserve required to be kept in its vault shall be presented on the same date and payment thereof demanded, the said bank may elect to make such payment in exchange instead of cash.

*Section 4.* WHEREAS, This Act is necessary for the immediate support of existing institutions of this State, an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.