

## FEDERAL RESERVE BOARD.

Washington

December 30, 1914.

My dear Governor:-

I have your letter of the thirtieth instant, in which you ask for an opinion on the following questions -

"Whether or not a Federal reserve bank is empowered under the provision of the Federal Reserve Act to act as agent for another Federal reserve bank in the collection of maturing notes, drafts, bills of exchange and other evidences of debt purchased under the provisions of the Act by the Federal reserve bank, which items are payable within the district of the Federal reserve bank to which they are sent".

The exercise of this power would require the collecting bank to act as agent for the forwarding bank in the collection of the items mentioned in your letter since, in such case, under the uniform decisions of the Court, the agency continues until the items are collected. This right is not specifically included in the powers of the Federal reserve banks enumerated in the Federal Reserve Act. Section Thirteen, in dealing with the subject of collections, provides -

"Any Federal reserve bank may receive from any of its member banks, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks and drafts upon solvent member banks, payable upon presentation; or, solely for exchange purposes, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks and drafts upon solvent member or other Federal reserve banks, payable upon presentation".

It will be observed that the language used in the Section above quoted does not specifically include notes, drafts and bills of exchange but Federal reserve banks are authorized to receive deposits of current funds in lawful money, national-bank notes, or checks and drafts upon solvent member or other Federal reserve banks, payable upon presentation. The question therefore arises, whether or not such notes, drafts and bills of exchange may be accepted by Federal reserve banks in the capacity of agent for other

Federal reserve banks and the determination of this question is dependent upon whether or not this power may be said to be incidental to those powers which are specifically granted. Section Four, sub-section 7, of the Federal Reserve Act, in defining some of the corporate powers of Federal reserve banks, reads as follows:

"To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act, and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this Act".

This language is substantially similar to the language used in Section 5136 of the Revised Statutes which deals with the corporate powers of national banks. Section Seventh of this Section reads as follows:

"To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing and circulating notes according to the provisions of this Title".

It will be observed that in defining the powers of national banks, as well as in defining the powers of Federal reserve banks, Congress has not specifically authorized such banks to act as agent for other banks. The powers enumerated, however, in both instances, are what may be termed contractual powers of a Federal reserve bank or a national bank; that is to say, the Act defines and limits under what conditions such banks may become indebted to others or may permit others to become indebted to such banks.

In the matter of collection of items mentioned in your letter, however, the relation of debtor and creditor is not established as between the forwarding bank and the collecting bank until the item sent for collection is actually collected; and where the instructions of the forwarding bank are to collect and remit the bank receiving such items has this single duty to perform and the proceeds are not credited to the forwarding bank after collection but are remitted to such bank. If the instructions accompanying such items are to collect and credit, then the collecting bank collects from the drawee of the draft or the obligor of the note, funds which it may receive on deposit, and, consequently, when its

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agency terminates it exercises a power specifically granted to it, namely, the power to receive deposits. Accordingly, it seems clear that the collection of items referred to by you may be said to be incidental to the power to receive deposits.

Banks very generally act as agents for other banks in making collections of this sort and the right of national banks to perform this duty has, so far as I have been able to learn, never been questioned; on the contrary, there are a number of cases holding that in the matter of collection of items banks, as stated, act only as agents until the item has been actually collected.

This is true even in the case of deposit of checks by individuals with national banks.

The Courts have held that even though credit may be given in the pass book for the check upon its deposit, the bank continues as the agent of the depositor until the check has been collected.

It seems to me, therefore, that unless as a matter of policy the Board determines that the Federal reserve banks are not ready to act as collecting agents for other Federal reserve banks in the collection of the items enumerated by you, there is no reason why this power should not be exercised without exceeding the corporate powers granted by statute, and those incidental to the specific powers granted.

Respectfully,

(Signed) M. C. Elliott

Counsel.

Hon. Charles S. Hamlin,  
Governor.