

FEDERAL RESERVE BOARD  
WASHINGTON.

December 2, 1915.

To the  
Federal Reserve Board.

Your Committee on Redistricting has received and noted the copy of the opinion of the Attorney General addressed to The President of the United States, under date of November 22, 1915, to the effect that the Federal Reserve Board has not the power to abolish any one or more of the Federal Reserve districts, or any one or more of the Federal Reserve Banks located in the cities designated by the Reserve Bank Organization Committee.

Your Committee feels that there has been a serious misunderstanding, not only of the substance and purpose of its preliminary report filed with the Board on November 13, 1915, but also of the motives which prompted it. Therefore, before making any further recommendations, your Committee is desirous of recounting briefly the facts which led to its action and on which it based its recommendations, with the hope that a better understanding of the facts as they appeared to your Committee may promote a common point of view and conduce to a continuation of the harmonious cooperation and mutual good will that has in the past char-

acterized the work of the Board and stamped it with the approval of the public at large.

On March 1, 1915, Mr. Elliott filed with the Board an opinion dealing with the general powers of the Board to review the determination of the Organization Committee, to readjust the Federal Reserve districts, to change the designation of the Federal Reserve cities, and to reduce the number of districts formed by the Organization Committee. It is to be noted, however, that, in this opinion, the question of reduction was referred to very briefly, and Mr. Elliott later advised the Board that the consideration of this particular question was merely incidental to the main questions discussed in that opinion and that, should the question of reduction be specifically considered by the Board, he would appreciate an opportunity of reconsidering his earlier opinion on that particular point.

In view of the doubts raised by Mr. Elliott, the Board decided to avail itself of the opportunity of Senator Owen's appearance before it in the hearing of the appeal of certain Oklahoma banks requesting a transfer from the Dallas to the Kansas City District, to ask for his views concerning the intent of Congress and the meaning of the Federal Reserve Act relating to the powers of the Board on this whole subject. The request for Senator Owen's views was not accidental, but intentionally contemplated to instruct and guide the Board in disposing of pending appeals. His answer was that Congress meant to "give to the Board the power of the Government itself in dealing with this system"

and that he thought the power of the Board "would extend even to the power of reducing the districts".

It is understood, of course, that this statement by Senator Owen was merely his own personal opinion and that it was made at a time when another though closely related subject was under consideration, but it at least indicates that there was no decided impression in Senator Owen's mind that this power to reduce was not given the Board.

The Board subsequently published in the June 1, 1915, Bulletin a resolution, which was passed unanimously on May 4, 1915, when both Governor Hamlin and Mr. Williams were present, providing, among other things, as follows:

"That action on other pending petitions be deferred until further experience in the actual operation of the several districts, especially in the light of the new clearing system which is about to go into effect, and of the extent to which State banks take membership in the Federal Reserve System, shall have provided the Board with the necessary data for a conclusion, it being the opinion of the Board that action on petitions relating to changes in cities designated as the location of Federal Reserve banks should be deferred until the Board shall have reached a conclusion from experience as to any further readjustments in the boundaries of the several districts, or in the number of districts, which may be desirable in the operation and development of the Federal Reserve System." (The italics are ours)

Your Committee is positive that no objection was raised at that time by any member of the Board or by any Member of Congress, indicating dissent from the proposition that the Board had the right to reduce

the number of districts. Indeed, such an argument was never raised in the briefs of counsel on the various appeals heard by the Board.

On October 19, 1915, the following vote was passed, "to refer the question of redistricting to a special Committee consisting of Mr. Delano, Mr. Harding and Mr. Warburg". Counsel for the Board were soon thereafter requested to prepare opinions as to the legal right of the Board to reduce the number of districts. Mr. Cotton filed his formal opinion on November 22, 1915, stating unqualifiedly that the Federal Reserve Board is fully authorized by the Act to reduce the number of districts. Mr. Elliott, who, in accordance with his own request, was re-considering his earlier opinion of March 1, 1915, filed his opinion with the Governor on November 23, 1915, and on November 22, 1915, the Attorney General delivered his opinion addressed to The President.

It may be noted, therefore, that at the time of making its preliminary report on November 13, 1915, your committee did not believe either that members of Congress would take the position that the Board was without power to reduce the number of districts or that members of the Board would, in view of the unanimous resolution above quoted take that view unless forced to adopt it by the conclusive opinion of Counsel.

Your committee began its work by elaborating a report submitting definite alternative plans, but finally concluded that it would be preferable to ask the Board first to pass upon the question of policy and the principle involved. Your committee had, however, reached a conviction that the country would be better served by a reduction in the number of

districts to eight or nine. The reasons on which this conviction was based seemed so convincing and conclusive to the committee that it hoped the Board might adopt unanimously the recommendation which it outlined. The committee is desirous of emphasizing in the strongest terms its absolute confidence, not only in the underlying principles of the Federal Reserve Act, but also in the machinery provided for developing such principles into a system which has already brought immeasurable benefits to this country and which, whether with twelve banks or eight, will prove of inestimable value. That the number of banks and districts originally created was larger than is conducive, in the opinion of your committee, to the most efficient operation of the system and to the greatest safety of the country is not the fault of the Act, but is due to the fact that the Organization Committee, which, though acting in the best of faith, could not, in the short time allotted to it, acquire such knowledge and experience as is absolutely necessary to a final determination of such an important question.

The Attorney General has since denied the right of the Board to reduce the number of districts determined by the Organization Committee, and in view of that your committee is not desirous of making any further recommendations at this time. It wishes, however, to emphasize the fact that at the time of filing its preliminary report, no doubt existed in its mind as to the wisdom of reducing the number of districts in the near future, but also the right of the Board to make such a reduction.

Your committee is ready to submit an abstract of the arguments

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that were prepared by it when it supposed that the subject was to be discussed on its merits, and it is of the opinion still that these arguments will assert themselves sooner or later, and that the country will not rest satisfied until the Federal Reserve System shall have been developed to render its maximum possible efficiency. Furthermore, your committee feels that, if the adjustment is not made at this time, it is more than likely to be made at some future time, but with far greater difficulty and disturbance.

In reviewing the evidence before the Organization Committee it was noted that, of the eighty-four witnesses, only nine recommended the formation of twelve districts; a large majority favoring not to exceed nine districts.

Your committee concluded, as a result of its study of the question, that the greatest protection from future disturbance was the immediate establishment of a system enjoying its maximum degree of usefulness and service. The country would not permit any subsequent interference with a machinery once perfected, whereas, weaknesses, such as those which seemed to your committee to exist now, offer a constant target for critics. For these reasons, not to mention the many practical advantages incident to carrying out, prior to January 1, 1916, any changes that might have been decided upon by the Board, your committee was sincerely anxious to secure prompt discussion and full consideration of its recommendations.

As the chairman of the committee repeatedly stated, the desire for immediate consideration of the question was not prompted by any inten-

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tion on the part of your committee to force the Board to take any un-considered action, and the fact that the request of two members of the Board for another preliminary report in writing as to the reasons for its recommendations was opposed by the committee was, as explained by the committee, solely because it desired to have the report discussed without delay on its merits/and at that time lay before the Board all the facts and figures it had collected. Such a course was in consonance with our usual practice . . . . .  
tics.

The committee had postponed filing its report on account of Secretary McAdoo's absence in the west, and later waited until Mr. Harding had called on him at his house to apprise him informally of the views of the committee and secure any suggestions which he might see fit to make. The Secretary, however, was unable, because of his own illness, and later by illness in his family, to discuss the matter with Mr. Harding, and the committee then filed its report on Saturday, November 13, 1915, fixing the following Monday for discussion by the full Board, the Secretary of the Treasury having stated to members that he would be engaged on his report to Congress until the 15th, which the committee assumed would leave him free after that date. However, consideration of the report was postponed until Monday, November 22, 1915, because of the inability of the Secretary of the Treasury to be present until that date.

At the meeting of November 22d, the opinion of the Attorney General, already referred to, was presented; also, the letters of two United

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States Senators. While the committee does not wish to take up at this time the question of the propriety of Governor Hamlin's action in asking the President to secure this opinion without an authorizing vote of the Board, it thinks it proper to point out that, although this opinion, which practically tabled the subject, was presented, there had been at no time a discussion of the committee's original report of November 13th, or of the revised report of November 17th. The committee, therefore, never had the opportunity which it desired to present fully and frankly its arguments and the data in its possession.

Your committee believes that it would have been fairer to The President, to the Attorney General, and to the Federal Reserve System, if the case had been submitted to the Attorney General with a full presentation of arguments on both sides of the question. If the Attorney General, for example, had understood that no closing of banking offices was contemplated but that in every city where a Reserve Bank was abandoned a branch bank would be established, he would not have been led to believe that the Committee's recommendation "would profoundly affect the currents of trade and alter the whole face of business throughout vast sections of the country," etc.

If your committee was right in its conclusions as to the advisability of a smaller number of districts, the permanency which the Attorney General and every one of us desires for the future of the system would have been best secured by prompt and courageous action now.



Your Committee, however, fully appreciates the authority of the Attorney General's opinion and, submitting to the conclusions reached therein recommends that the Board abandon, at least for the present any plan of redistricting which involves the consolidation of any districts and that the Board now address itself to the specific appeals pending and to such readjustments as may be permissible and practicable under the Attorney General's opinion.

There are now pending before the Board for disposal five applications, viz:

First: The application of certain member banks located in Western Connecticut requesting that the territory in which they are located be transferred from the First to the Second Federal Reserve District. The Committee respectfully recommends that a date be fixed for the hearing of oral arguments before the Board relative to this appeal;

Second: The application of certain member banks located in Wisconsin requesting that the territory in which they are located be transferred from the Ninth to the Seventh Federal Reserve District. The Committee respectfully recommends that the Board send a letter ballot to all member banks of the Minneapolis District involved in this appeal, requesting that they reply promptly to the Federal Reserve

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Board, stating whether they wish to be transferred to the Seventh or to remain in the Ninth District, and stating also whether they feel that their interests are being harmed by remaining in the Ninth District;

Third: The application of certain member banks located in Louisiana requesting that the territory in which they are located be transferred from the Eleventh to the Sixth District. The committee respectfully recommends that, unless the Federal Reserve Bank of Dallas desires to be heard in the matter, the case of the Louisiana banks be decided upon the facts now in the possession of the Board without any further hearing, but if Dallas desires to be heard that a date for the hearing be promptly fixed.

Fourth: The application of member banks located in  
and  
Fifth Pittsburgh and Baltimore requesting that those cities be designated as Federal Reserve Cities in place of Cleveland and Richmond, respectively,

Your committee wishes to call the Board's attention to the opinion of Mr. Elliott, dated March 1, 1915, which, in answer to the question "Can the Federal Reserve Board, under the terms of the Federal Reserve Act, designate other Federal Reserve Cities in place of

those selected by the Organization Committee?", held that the Board has no legal power to change the designation of a Federal Reserve City unless such change is necessary in order to accommodate the convenience and customary course of business in a readjusted district. Mr. Elliott, in disposing of this point, stated:

"If, therefore, the Board concludes that the districts are not apportioned according to the purpose and intent of the Act and determines that it is necessary to readjust such district, it would seem clear that it possesses an implied power to change the designation of the Federal reserve cities. If, however, the districts are not readjusted, it seems very doubtful whether this power can be implied, and to change the designation of cities without readjusting the districts would necessitate resolving this doubt in favor of the exercise of this power against the apparent intent of Congress. "

On the strength of this opinion of its Counsel, the Board might well be justified in undertaking such changes in the designation of Federal Reserve Cities as may be necessarily incident to the readjustment of the districts in which they are located. On the other hand, in view of the great importance of the subject, and because of the doubt expressed by Mr. Elliott, and also because of the uncertainty in the minds of the committee as to the intent and effect of the opinion of the Attorney General on this particular point, it submits for consideration of the Board the suggestion that the Governor be in-

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structed to address a letter to The President, asking him kindly to request the Attorney General to give his opinion on the following questions:

- (1) Can the Federal Reserve Board legally change the present location of any Federal Reserve Bank?
  - (a) In the case where there has been no alteration in the district lines? and
  - (b) In the case where there has been such a readjustment of district lines as in the opinion of the Board necessitates the designation of a new Federal Reserve City in order that the convenience and customary course of business may be accommodated as required by law?
- (2) Must the Board, in exercising its admitted power to readjust, preserve the \$4,000,000 minimum capitalization of each and every Federal Reserve Bank.

Your committee finds itself unable to make any specific recommendation relating to the changes in the designation of the cities of Cleveland and Richmond as Federal Reserve Cities in the Fourth and Fifth Districts, respectively, but it feels that any attempt to determine those questions should be deferred until the Board is advised finally and definitely, not merely of its power to ~~change the~~ designation of a city, but also, first, whether the power to make such a change is dependent upon further readjustments in the district lines, and, second, whether, if it is dependent upon such readjustments, the \$4,000,000 capital limit must be preserved in making such changes in the district lines.

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Your committee also feels that if this matter is put up to the Attorney General, he should be advised that, while there are distinct features in the present adjustment of districts which do not command themselves to the best judgment of the committee, and do not in its opinion comply strictly with the injunction that due regard must be had to the convenience and customary course of business, we recognize the difficulty of adjusting these matters so long as the Board is bound to preserve twelve districts, and at the same time maintain for each bank a capital large enough to command sufficient prestige and confidence.

In his opinion the Attorney General formulated the query, "Would the power to readjust districts, which is expressly conferred upon the Board, be nullified or rendered impotent if the power to abolish districts and banks is withheld?" Your committee's response to this is that the ruling of the Attorney General, as a practical matter, nullifies the Board's power to readjust the districts inasmuch as such readjustment of necessity must be made with a view to preserving an adequate capitalization for each bank, several of which are now close to the limit prescribed for the Organization Committee and of smaller size than is conducive, in the opinion of your committee, to the best interests of the system.

Respectfully submitted:

F. A. DELANO

Committee P. M. WARBURG

W. P. G. HARDING