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May 5, 1920

My dear Mr. Chairman-

The Federal Reserve Board desires to invite the attention of your Committee to Senate Document 184, which contains the Board's reply to a Resolution of the Senate of the United States dated January 19, 1920, requesting that "the Federal Reserve Board" inform the Senate whether the Board or any Federal Reserve Bank, under instructions or with the consent or knowledge of said Board, has resorted to any method of coercion to compel State banks to join the Federal Reserve System, or by threats or other coercive means has attempted to require such State Banks to submit to any rules or regulations made by the Federal Reserve Board or any Federal Reserve Bank."

This response explains at considerable length the position that has been taken by the Federal Reserve Board and the various Federal Reserve Banks in the matter of the country-wide clearing of checks. In this communication reference is made to the provisions of Sections 13 and 16 of the Federal Reserve Act and to the opinion of the Attorney General of the United States as to the intent of these sections. The Board believes that it is charged with the duty and responsibility of inaugurating a complete check clearing system throughout the United States, that the Federal Reserve Banks in compliance with the evident purpose of the law and in fairness to all their member banks must exercise their power to receive for collection from those member banks checks upon whomsoever drawn which are payable upon presentation, and the so-called "Hardwick Amendment" to Section 13 authorizes both member and non-member banks to make "reasonable charges, to be determined and regulated by

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the Federal Reserve Board, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal Reserve Banks."

In view of the opinion of the Attorney General, the Federal Reserve Banks do not feel authorized to pay any charges to banks for remitting for checks drawn upon them and sent for collection by the Federal Reserve Banks. While banks are still authorized to charge each other for such service, they are prohibited from charging the Federal Reserve Banks, which are required to receive from member banks at par all checks which are payable upon presentation. Thus it happens that the Federal Reserve Banks find themselves in possession of checks drawn upon non-member banks which they cannot send by mail to the banks upon which they are drawn for the reason that those banks decline to remit at par, and it becomes necessary, therefore, as the law does not provide any penalty upon non-member banks for refusing to remit at par, for the Federal Reserve Banks to provide themselves with some other means of collecting checks drawn upon such non-assenting banks.

The Federal Reserve Banks give non-member banks which agree to remit

at par the option of paying by check on some convenient banking center or by shipment of currency at the expense of the Federal Reserve Bank. Stamped envelopes are always sent a non-member bank for use in making remittances. Non-member banks are not asked to perform any collection service; they are merely asked to waive personal presentation of checks drawn upon themselves by their own depositors and to pay them by mail remittances without making any charge. In the event that those non-member banks do not agree to remit through the mails at par for checks forwarded to them by the Federal Reserve Banks, the Federal Reserve Banks are obliged, as previously stated, to effect the collection of those checks by the only other means possible, that is, presentation over the counter. The legal right to collect checks in this manner cannot be disputed since it is a right which is inherent in the check itself and which may be exercised by any holder thereof whether an individual, firm or corporation.

There is unquestionably, however, a wide and deep-seated opposition on the part of non-member banks in various sections of the country, and on the part of some member banks as well, to the universal clearing system which the Federal Reserve Board has been endeavoring to establish. Legal proceedings were instituted several weeks ago in the Sixth Federal Reserve District and an injunction was granted restraining the Federal Reserve Bank from collecting checks drawn upon non-member banks through the express companies or by having presentation made by a local agent other than a bank. The United States District Judge has decided this case on all points in favor of the Federal Reserve Bank, but an appeal will be taken to the United States Circuit Court of Appeals and eventually, no doubt, to the Supreme Court of the

United States. Pending the appeal the United States District Court will be asked to grant a supersedeas, which if granted will keep in effect the terms of the original injunction.

The Board would respectfully represent to your Committee that it is important, if possible, to have the attitude of Congress toward the Federal Reserve par collection system made clear beyond any possible doubt, and it therefore requests that your Committee give all interested parties a hearing, both those who are opposed to the present system and those who favor its continuation and completion, and that after a hearing your Committee adopt one of two definite courses: (1) that it report a bill authorizing both member and non-member banks to make charges against the Federal Reserve Bank as well as against each other for remitting for checks, not to exceed ten cents per one hundred dollars, with the provision that Federal Reserve Banks be authorized to charge to sending banks any exchange charges paid in collecting checks for them, or (2) that it report a bill clearly and definitely establishing the universality of the par remittance system by imposing such conditions or penalties as will insure compliance with the law by all banks of deposit, non-member State banks and private bankers as well as member banks.

The Federal Reserve Board suggests the second alternative only for the reason that it has been contended that the present enactment leaves open some doubt as to the duty of the Federal Reserve Banks to receive checks drawn on non-member banks which are not willing to remit at par, and because it is convinced that a large number of non-member banks will never be reconciled to par remittance as long as Section 13 of the Act remains in its

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present form. In many districts the methods which the Federal Reserve Banks have been obliged to adopt in order to make collections of checks drawn upon non-assenting non-member banks have subjected the Federal Reserve Banks and the Federal Reserve System to constant criticism and opposition, and the Board believes that the public interest would be served by an even more definitive enactment by Congress than that now in force.

The Federal Reserve Board and the Federal Reserve Banks have matters of vital importance to which they ought to be permitted to give their undivided attention, and the Board earnestly hopes that your Committee will give this subject prompt consideration and that it will report a bill to the House carrying out one suggestion or the other.

Very truly yours,

W. P. G. HARDING

Governor.

Hon. Edmund Platt, Chairman,
Committee on Banking and Currency,
House of Representatives.