

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY

Farmers & Merchants Bank  
of Catlettsburg, Kentucky,

Plaintiff,

v.

BILL OF COMPLAINT.

Federal Reserve Bank  
of Cleveland, Ohio,

Defendant.

Now comes the plaintiff Farmers & Merchants Bank of Catlettsburg, Kentucky, and for its cause of action against the defendant Federal Reserve Bank of Cleveland, Ohio, says:

That the plaintiff Farmers & Merchants Bank of Catlettsburg, Kentucky, is a banking corporation, duly created, organized and existing under and by virtue of the laws of the State of Kentucky, with its principal place of business and its banking house located in the said City of Catlettsburg, in Boyd County, Kentucky, with power to sue and be sued, and to conduct and carry on a general banking business subject to the laws, regulations and supervision of the State of Kentucky,

That the defendant Federal Reserve Bank of Cleveland, Ohio, is a banking corporation created, organized and existing under and by virtue of the laws of the United States of America and being the Fourth of the twelve regional banks provided for by an Act of Congress known as the Federal Reserve Act, with its principal office and place of business in the City of Cleveland, Ohio, and with power to sue and be sued and to carry on a banking business pursuant to the provisions of the said Federal Reserve Act, and particularly to carry on business in the

states of Ohio, Pennsylvania, West Virginia and Kentucky, and composed of member banks in said states.

The plaintiff says that the defendant has unlawfully, wrongfully, intentionally, wilfully and maliciously interfered with, intermeddled in, and injured the plaintiff in its manner, method and established custom of conducting its banking business which it was doing under, by virtue of, and in accordance with, the laws of the Commonwealth of Kentucky, in that, it annoyed, embarrassed, coerced, attempted to coerce, interfered with, intermeddled in, and injured the banking business of the plaintiff by certain wrongful and unlawful acts and conduct, including that hereinafter set forth in detail.

The plaintiff says that on September 12th, 1916, when its said banking business was incorporated, that it was the purpose of its said incorporators in creating and organizing under the state laws of the Commonwealth of Kentucky, to avoid the rules, compliances, requirements restrictions and laws regulating and governing the banks created and existing under the Acts of Congress known as the Federal Reserve Act; and to organize and comply with the acts and statutes of the Commonwealth of Kentucky so as to render itself amenable only to the jurisdiction of the laws of said Commonwealth of Kentucky.

That at all times herein mentioned, and long since, it has been the policy and custom of the Commonwealth of Kentucky to promote and encourage the growth and development of the business of banking in said State and particularly to promote and encourage the establishment and conduct of banks in small towns and rural communities so as to furnish

the citizens of Kentucky residing in such small towns and rural communities with a safe depository for their money, to keep the capital and earnings of such communities within themselves, where it would be available to such communities so creating and earning said capital as loans to be used in the growth and development of these communities' industries; that the town of Catlettsburg, Boyd County, Kentucky, is a small town, having a population of about 4500 people; that it is a farming town, or one located in a farming community; that there is but one industry or manufacturing plant, to-wit, a flouring mill of small capacity in the said town; that the banking business of the plaintiff is largely local and relatively small, in comparison to the business of the defendant; that the plaintiff bank is what may be, and is hereinafter, termed, a "country bank"; that its depositors are mostly farmers, small merchants and residents of the town of Catlettsburg and of the County of Boyd; that the character of funds so deposited with it by its said depositors is mostly checks and drafts; that of such deposits so made with it by its said depositors only a small percentage is cash or currency; that about five (5) per cent of its average daily deposits so made with it by its said depositors is in currency or cash; that about ninety five per cent (95%) of said deposit is checks and drafts, or evidences of credit other than currency; that at all times herein mentioned the plaintiff has accepted from its depositors on deposit with it said checks, drafts and other deposits, as well as currency; that one of the important functions performed by the plaintiff is the use of checks payable on demand drawn by depositors against deposits in said bank which are used

in commercial transactions in lieu of the actual money, and that said check is the instrument by which the depositor ordinarily seeks to withdraw funds, or a part thereof, which have theretofore been deposited by him with the plaintiff bank.

Plaintiff says that it has always been the custom in country banking circles and particularly in the community in and near Catlettsburg, Boyd County, Kentucky, to honor checks drawn by its depositors on funds on deposit with a country bank and particularly on deposit with this plaintiff by paying the same over the counter in cash, when circulated and negotiated locally, and that by reason of such custom so established the plaintiff bank, by the long experience it has had in banking business in this community, based upon the law of averages, know approximately just what sums of money would daily be demanded of it by the public in payment of checks over the counter in cash.

That it was also an old and established custom in banking circles in said community, and particularly with this plaintiff, for the depositors of such small country banks to give their checks drawn against funds on deposit with such country bank to wholesale and retail merchants and other persons residing in large cities and business centers at a distance from said rural community and from the town of Catlettsburg, Boyd County, Kentucky, in settlement of commercial transactions had with such non-resident persons; that the volume of checks so given to such non-resident persons in settlements of commercial transactions so had with them was large in comparison with the volume and sum total of checks given by depositors and negotiated and circulated locally; that it has long been the established custom and practice of

country banks, and particularly of this plaintiff, to handle checks given to such non-resident persons by depositors and drawn on funds on deposit with this plaintiff, daily, through the mails by correspondence, and that when such checks are thus sent through the mails to this plaintiff, service is demanded of the country bank upon which they are drawn, and of which this plaintiff is one, in the following manner:

Record must be made showing from whom the check was received; the amount thereof entered upon such record; the party transmitting such check being a non-resident of the community in which said country bank is located, expects, and must have, a remittance of the proceeds of said checks in funds available at the place of the sender's residence, or else in New York Exchange, which by natural banking customs has grown to be current throughout this community, and it thus becomes incumbent upon the country bank to maintain in New York, Cincinnati, or elsewhere, funds to be drawn upon to cover remittances necessary to take care of the proceeds of checks thus sent to it through the mails. These funds are maintained by the plaintiff, likewise by all the country banks, through the medium of deposits to its credit in banking institutions located at such financial centers and which deposit accounts must be maintained in amounts adequate at all times to meet the average necessities of the drawee bank and to cover the total sum in transit against said drawee bank; the maintenance of such deposit funds or correspondent reserve funds is necessarily an expense in as much as it is usual and customary for such correspondent banks to pay in interest only 2-1/4 per cent. interest on the daily balance in such funds to the credit of such country bank and there are numerous other duties and expenses in connection

therewith. When such checks are received through the mails, a draft is drawn by the plaintiff or country bank against the fund on deposit with its city correspondent bank to cover the amount of such check; this draft must be and is written up by a competent and experienced person and duly recorded in the records of the plaintiff or other country bank and properly charged to the account of the correspondent bank, a letter of remittance must be prepared and written and the draft enclosed therewith, and postage paid for the return of the letter and remittance through the mails; the completed transaction must be recorded in the drawee bank, and it must see to it that its correspondent reserve fund is always ample to meet all checks or drafts so given against its correspondent bank and, if necessary, it must send either currency or other credit to said correspondent bank to meet said checks or drafts, so clearing the non-resident person's checks.

The plaintiff at all times herein mentioned kept and maintained such correspondent reserve funds with the Fifth-Third National Bank of Cincinnati, and Hanover National Bank of New York City, for the express purpose of clearing and handling such checks as its depositors gave to persons non-resident to the community of Catlettsburg. The mailing of checks and the expressing of currency to such correspondent bank took some few days' time and the mailing of such checks of such non-resident persons to the plaintiff took time; the checks were charged to the plaintiff bank by its correspondent as soon as received by it so as to render the credit at once available to the non-resident person. In such manner the plaintiff lost some interest and use of its money. All of

this service of so clearing checks for such non-resident persons was an expense to the plaintiff and is likewise expensive to all like country banks, and by reason of such expense and the risk incident to loss of any item by reason of theft or robbery of the mails, made it reasonable and necessary, and it was long an established custom, for such country banks to make a charge of one-tenth of one per cent. on the amount of all such checks so cleared by it for such non-resident persons through its correspondent banks by mail, which was deducted from the proceeds of such checks, and which charge is commonly known in all banking circles as "Exchange", and will hereafter be so referred to. The continuation of the old and established right of such country banks to charge such exchange is essentially important to such banks and particularly to this plaintiff, and any interference with such right to so charge exchange necessarily injures, damages and embarrasses the plaintiff.

The plaintiff says that the services thus required of it to handle and clear checks drawn upon funds on deposit with it by depositors and sent through the mails for collection by non-resident persons, as above described, necessarily increases its expense of doing business; that this service directly inures to the benefit of the payee or original recipient of said check and the subsequent holders thereof by endorsement in the regular course of business, and is the primary means through which checks have come to be so large an element in the media of exchange in lieu of actual currency; that in order to compensate for this service, it has long been the universal custom of banks generally, and particularly

of this plaintiff, to make a charge of one-tenth (1/10) of one per cent of such checks so cleared which is deducted from the proceeds of the amount named therein and is commonly called "Exchange"; that such a charge is customary and long established in banking circles in this community, and is entirely proper to cover the expense of the plaintiff in handling such checks cleared through the mails and correspondent banks, and constitutes one of the most important sources of revenue and income to the plaintiff in its said banking business; that the custom, practice and right of the plaintiff to make such an "exchange" charge for so clearing checks by correspondence is a property right belonging to the plaintiff, and is essentially important to its success and prosperity in the performance of its functions and the carrying on of its banking business under its charter and under the statutes of the Commonwealth of Kentucky;

That when a bank foregoes any such "exchange" charge for the collection and remittance of checks and gives such service free to the non-resident persons holding such checks as heretofore described, and forwards draft to cover the amount of such checks through the mails, without making any deduction for service, that the banking term then employed in such case is called "remitting at par", and is hereinafter referred to as such.

The plaintiff says that the prosperity, success, and, in fact, the very life of its banking business depended absolutely upon the degree of confidence, trust and good will reposed in its officers, agents and in its good name by the citizens and residents of the town of Catlettsburg, Kentucky, and the banking community around said town, with which the plaintiff was offering to do business, and from which it was

securing its depositors, in order to hold old depositors accounts and secure new ones; that the officers and agents of the plaintiff had been, prior to the incorporation of this plaintiff, engaged in the banking business in the town of Catlettsburg for a great many years and were held in high regard by the public in the said town and in the banking community around it; that from the date of its incorporation up until the times of the acts of the defendant hereinafter complained of as herein set out in part, in detail, the plaintiff banking institution had rightly and deservedly held and enjoyed the confidence, trust, faith and good will of the public in the said town of Catlettsburg, and in the banking community around said town by reason of its fair dealing, established custom and manner of conducting its business in strict and faithful compliance with, and observance of the laws of the Commonwealth of Kentucky; that said confidence, faith, trust and good will were a good and valuable asset and property right well and deservedly earned by the plaintiff and of great and real value to it; that it had a large number of depositors and that the account of each depositor was a real value to plaintiff in its said banking business;

That the Federal Reserve Act was passed and enacted by the Congress of the United States of America in the year 1913, for the purpose and design of affording and furnishing a more elastic currency and more practical means of rediscounting commercial paper, establishing a more effective supervision of banking in the United States, and providing for the establishment of Federal Reserve Banks; that under this Act, the territory of the United States was divided into twelve districts

and provision was made for the creation of a Federal Reserve Bank for each of said districts, the defendant bank herein being created under said Act for the Fourth District therein set off under said Act; that the said Fourth District takes in and includes that part of the State of Kentucky in which is located the town of Catlettsburg, in Boyd County, Kentucky, and in fact, includes in its jurisdiction the territory of all of Eastern Kentucky as the same is designated in the Judiciary Act creating the District Court of the United States for the Eastern District of Kentucky; that the defendant bank as a body corporate is composed of member banks resident in its said district, and particularly of member banks resident in the State of Kentucky, which member banks are subscribers to and owners of the capital stock of such reserve bank, the stock of each member bank being apportioned to it in accordance with its individual capital and surplus; that all National Banks are required by said Act to become members of the Federal Reserve Bank in the district in which said national bank is located; that no state bank is required to become a member of such Federal Reserve Bank by said Act, and that said Federal Reserve Banks are by said Act given no power, authority, regulation or supervision over such state banks; that said Act does make provision for the voluntary acquisition of membership in said Federal Reserve Bank by banks incorporated under legislative enactment of the States, such, for instance, as the plaintiff in this case; provided, however, that such state bank shall have the minimum capital stock required of national banks, shall subscribe and purchase the pro-rate of capital stock in said Federal Reserve Bank apportioned to it, and otherwise comply with the said Act.

Plaintiff says that at no time and in no manner has it done anything to signify its consent to be regulated, supervision or controlled by the defendant, nor has it ever brought itself under the power, authority or control of the defendant.

The plaintiff says that since its incorporation the defendant Reserve Bank has been a powerful factor in the banking business of the said Fourth District as the same is designated under said Act of Congress, and particularly in the State of Kentucky, and in the town of Catlettsburg, and in the banking community around said town; that it has handled and controlled billions of dollars of credit and money, and has exercised and exerted an enormous power and influence upon the banks and banking business and the whole scheme of finance in said territory, district state and community; that by reason of its immense power, control and authority over practically all the large banks in said district, its least intimation becomes law to such banks and its slightest desire is sought to be satisfied and composed by such banks in its said district; that in accordance with a plan and policy adopted by the Federal Reserve Board, the defendant bank has adopted, inaugurated and enforced, since about January 1st, 1920, a policy and plan for the par clearance of checks by all banks within its said district and particularly by the plaintiff herein; that on or about the 23rd day of December, 1919, the defendant advised the plaintiff by circular letter that from and after the 1st day of January, 1920, it would require of the plaintiff that the plaintiff clear checks at par; that the plaintiff should forego its right to charge exchange for clearing checks; that the service incident to remitting the proceeds of such checks should be furnished

by the plaintiff without any compensation whatever; and to this end the defendant Reserve Bank soonthereafter sent its agents and representatives, and particularly it sent its duly authorized agent, one M. C. Magee, to the town of Catlettsburg to call upon the plaintiff and importune and persuade it to change its old and established manner and method of conducting its said banking business and to adopt the new plan of par clearance of checks desired to be universally adopted and enforced by the defendant in its said Fourth District.

The plaintiff did not desire to change its old and established manner and method of carrying on and conducting its said banking business, and so advised at all times the various agents and representatives sent to it by the defendant. These various agents and representatives of the defendant attempted to obtain from the plaintiff its signature to a written agreement agreeing to remit at par and to waive its right to charge exchange on all such checks as were presented by the defendant by correspondence for clearance through the mails as aforesaid. But the plaintiff has at all times refused to sign such agreement, and has always insisted and still insists on its right to charge exchange on such checks as it remits by mail as aforesaid.

The plaintiff says that thereupon the defendant schemed, planned and determined to, and did, unlawfully, wrongfully, maliciously, and wilfully, exert and exercise its said immense power, influence, resources and authority to, and did, annoy, embarrass, coerce, interfere with, intermeddle in, and injure the banking business of the plaintiff

for the purpose of forcing the plaintiff to agreeing to remit at par, and of performing the services incident to the clearance of checks by mail without any compensation, and of changing its old and established manner and method of conducting its banking business to suit the will and desire of the defendant.

And if such unlawful acts should fail to force and coerce the plaintiff into doing the will of the defendant, then it was the purpose and intention of the defendant to completely destroy the banking business of the plaintiff; that pursuant to such plan, scheme and determination the defendant Reserve Bank advertised to all the banks in the United States that it would undertake to collect free of cost all checks drawn upon the plaintiff by the depositors of the plaintiff and which had been mailed out of the town of Catlettsburg. This was accomplished by the defendant putting the name of the plaintiff bank upon the "par list" as the same was then prepared, printed and published to the various banking houses in the United States, on or about the 1st day of January, 1920, which advertisement had the immediate effect and result of, and did, withdraw from the old and customary banking channels established by the plaintiff with its correspondent banks, a very large part, in fact practically all, of the said checks drawn on the plaintiff by its depositors and sent out of the town of Catlettsburg, and gathered and assembled said checks into the hands of the defendant for the purpose of having them cleared without cost to the owners or holders thereof;

That after the defendant had obtained the possession of said checks as aforesaid, it again sent its agents and duly authorized representatives to call upon the plaintiff for the purpose of, and they

did attempt to persuade the plaintiff to enter into an agreement in writing to remit for said checks at par. Failing in this, said representative attempted to intimidate the plaintiff by threats of injury to, and interference with its business as it was then conducting the same, and failing through threats to obtain such agreement to remit at par, the defendant then presented each day all the said checks so coming into its hands for collection at the counter of the plaintiff and demanded the payment of said checks in cash over the counter; that some time during the month of January, 1920, the defendant first began the collection of all such checks in cash over the counter of the plaintiff by use of the American Railway Express Company; that the defendant collected all such checks drawn on the plaintiff by its depositors and so going out of the town of Catlettsburg by means of the aforesaid advertisement into its branch at Cincinnati, Ohio, and there delivered said checks to said Express Company with instructions to said Express Company to present said checks at the counter of the plaintiff bank and demand cash in payment thereof, and with further instructions to accept payment in no other form or evidence of credit than cash.

Plaintiff says that it offered said Express Company a draft drawn on the Fifth-Third National Bank of Cincinnati against funds it there had on deposit to its credit in payment of said checks so presented to it by said Express Company, but such draft was refused and payment demanded in cash, or the Express Company stated that said check or checks would be protested for non-payment;

That the said Express Company so continued to make such collections in such manner on behalf of the defendant for some four or five

weeks, at which time the defendant employed a local personal agent in the town of Catlettsburg and instructed said agent to, and said agent did, daily, receive from its said Cincinnati Branch, by mail, such checks as were sent out of town by its depositors and drawn on funds on deposit with the plaintiff and which came into the hands of the defendant by reason of said advertisement of the defendant undertaking to so collect and clear said checks free of cost to the owners and holders thereof, and did daily present said checks at the counter of the plaintiff and demand payment thereof in cash; that the plaintiff would daily offer to said agent in payment of said checks a draft drawn on the Fifth-Third National Bank of Cincinnati, against funds on deposit with said bank in the name and to the credit of the plaintiff bank, which was always refused and cash demanded, and the threat made by such agents that if payment were not made in cash the said checks would be protested by said agents for non-payment; that the defendant continued to so make collections of said checks in cash over the counter of the plaintiff for about eighteen months and until enjoined from so doing by temporary restraining order directed from the District Court of the United States for the Eastern District of Kentucky; that such collections so made by said agents in cash over the counter of the plaintiff were continued and inaugurated by the defendant for the purpose of coercing, forcing and compelling the plaintiff to sign a written agreement with the defendant agreeing to remit for such checks at par and without cost or charge to the owners of said checks.

Plaintiff says that such collections so made by defendant in cash over the counter of all such checks going out of the town of

Catlettsburg, so drawn on it by its said depositors against funds on deposit with it was, and is a manner and method of clearing foreign items heretofore unheard of in banking circles, and so interfered with and destroyed the established manner, custom and practice of the plaintiff in conducting and carrying on its said banking business, as to greatly injure and damage it; that such collection in cash over the counter destroyed the law of averages then existing in the town of Catlettsburg in the practice and experience of clearing checks over the counter as the same had existed at all times prior to such unlawful interference by the defendant with said law of averages, and such collection of said checks in cash over the counter so broke down and destroyed the economic laws relating to the business of banking in the town of Catlettsburg as the same related to and affected the plaintiff's banking business, as to destroy and greatly injure the plaintiff's said business; that said practice of so collecting said checks in cash over the plaintiff's counter drained the vaults of the plaintiff of all cash and currency left on deposit with it by its said depositors and created an unusual and unreasonable demand upon the plaintiff for cash and currency much in excess of all the cash left on deposit with it by its said depositors and caused it to go out into the banking community in and about the town of Catlettsburg, and borrow and secure cash to meet the payment of the checks so sent out of the town of Catlettsburg and so procured by the defendant and presented at the counter of the plaintiff for payment in cash; that such manner and practice of so collecting said checks in cash over the counter left the plaintiff with no available cash to lend its patrons or any other person and entirely took away from the plaintiff the power and

right to earn money by its old and established custom of making loans at legal rates of interest; and embarrassed, annoyed, harrassed, injured and damaged the business of the plaintiff by exciting and raising a suspicion in the public mind of the citizens of Catlettsburg and of the depositors of the plaintiff as to the solvency of the plaintiff's said banking institution and caused the plaintiff to thereby lose old and established accounts of depositors as well as future and prospective accounts of new depositors.

That the defendant's said agents and duly authorized representatives conducted themselves in and about the plaintiff's said banking house while presenting and collecting said checks in cash over the plaintiff's counter in a loud, boisterous and quarrelsome manner so as to, and did, attract the attention of the public and of the plaintiff's depositors to the fact that something very unusual was going on in said banking house, and with the purpose of, and did create a suspicion in the minds of the depositors and of the public generally about said town that the plaintiff's banking business was being improperly and unlawfully managed and conducted; that said agents and representatives took occasion to create scenes and disturbances at times when there would be many customers of the plaintiff in the lobby of the plaintiff's bank so as to further impress the minds of said depositors with the suggestion that the plaintiff's banking business was being improperly conducted by the plaintiff;

That said agents and duly authorized representatives went about in the said town of Catlettsburg so conducting themselves as to

create and direct suspicion against the plaintiff, and called upon various old and new depositors of the plaintiff and by persuasion and suggestion, and positive assertion, undertook to have them withdraw their accounts from the plaintiff's banking house and do their banking business elsewhere; and that said agents and duly authorized representatives called upon merchants and professional men in said town for the purpose of ascertaining the sources of supply of plaintiff's cash deposits, with intent to cut off said supply of cash from plaintiff, and for the purpose of creating suspicion against the plaintiff and having said depositors withdraw their accounts from the plaintiff's bank; that by reason thereof, a larger number of plaintiff's depositors did withdraw from the plaintiff's banking institution their accounts, some of which were of great, and all of which are of real, value to the plaintiff.

The plaintiff says that in order to protect itself against the practice of the defendant in collecting into its hands all of the checks so drawn on the plaintiff by its depositors and sent outside of the town of Catlettsburg, and then presenting these checks in a body at the counter of the plaintiff and demanding payment in cash thereof, the plaintiff adopted the plan of stamping all of its blank checks which it furnished to its depositors with this endorsement: "Payable in cash or exchange draft at the option of the Farmers & Merchants Bank, of Catlettsburg"; that when such checks bearing such endorsement came into the hands of the defendant during the aforesaid eighteen months the defendant was collecting said checks in cash over the counter and otherwise bringing its enormous influence and power to bear heavily upon the

plaintiff for the purpose of coercing it into signing an agreement to remit at par, that the defendant, knowing the plaintiff would exercise its privilege of payment of checks so endorsed by exchange draft, would and did return said checks to the holders or owners thereof, or to the payee named in the check, together with a form letter, or with a "slip" or "rider" attached thereto with a statement thereon conveying the idea or suggestion that said check was not negotiable, or that the plaintiff's bank was closed, or that the plaintiff's bank funds were attached or tied up in some court proceeding, or was insolvent, or that the maker of said check was without funds to meet said check, and otherwise by action or statement advise, intimate, suggest, infer or state to the said holder owner or payee of said check, that the plaintiff bank was not meeting its lawful obligations and duties, or that the maker of said check was not meeting his lawful obligations, for the purpose of, and did cause the owner, holder or payee of said check to complain to the maker thereof, who was a depositor of the plaintiff, in order that the said depositor might be, and he did become dissatisfied, suspicious and distrustful of the plaintiff and withdraw his account from the plaintiff's bank.

The plaintiff says that the number of such "follow-up letters" slips or "riders" so sent out through the mails by the defendant so as to and did reach the plaintiff's depositors was very large; that the effect and result of such action and each letter, slip or rider so sent was intended to and did injure the credit and reputation of such depositors with the commercial world extending credit to and doing business with its said depositors, and likewise so injured and damaged the credit and reputation of the plaintiff as a banking institution, and

further injured and damaged the plaintiff by the withdrawal by depositors of their accounts for the plaintiff's bank.

The plaintiff says that as an additional measure of torture the defendant maliciously, wrongfully and intentionally further sought to, and did damage and injure the good name and reputation of the plaintiff by advising certain banks with whom the plaintiff had by long practice and custom established good credit and done a large volume of its banking business, that no checks, draft or commercial banking paper bearing the endorsement or name of the plaintiff bank would be accepted or handled by the defendant, thereby suggesting, intimating and naming to said banks that the business reputation, credit and name of the plaintiff bank was so rotten that no paper bearing its endorsement, no matter who the maker, or how good the paper otherwise might be, would be accepted by the defendant.

The plaintiff says that it has always been its practice and custom to clear at par all items called "Government Items", and being checks and drafts given to the United States Government by depositors in payment of some obligation due it and drawn on the plaintiff by reason of its clearing such items; that such has always been the universal practice among all banks in the United States at all times; that this fact was well known to the defendant and also it was well known to the defendant, that the plaintiff had a large number of depositors who monthly, yearly, or quarterly paid an income tax, or some other form of revenue tax to the Collector of Internal Revenue; that as a final method of torture, one that would reach every good depositor the plaintiff bank held, after much skilled and capable legal advice and with great study

and deliberation, the defendant maliciously, mischievously, and intentionally enlisted and procured the assistance of the Department of Internal Revenue, and of the Collector thereof, at and in the City of Louisville in its campaign of coercion, annoyance, embarrassment and torture against the plaintiff so that for the last two years past said Collector has, at the instigation, request, instance and action of the defendant, refused to accept from any and all depositors of this plaintiff any check drawn upon funds on deposit with the plaintiff in payment of any obligation due the United States Government; that personal checks drawn against state banks are customarily and generally accepted by said Collector in payment of income tax and were customarily and generally so accepted by said Collector when drawn against funds on deposit with the plaintiff by its depositors until the interference and intermeddling of the defendant; that the plaintiff has advised the said collector that it has never demanded, and does not now demand any exchange upon the clearance of checks given to him in payment of Government obligations, but notwithstanding such advice, said Collector has upon the instance and connivance of the defendant continued to refuse to accept any check drawn on the plaintiff bank in payment of said obligation, even without any presentation to or effort to collect said checks; that as a result of such intermeddling and interference the depositors of the plaintiff have been greatly inconvenienced and the business of the plaintiff greatly damaged.

The plaintiff says that the agents and representatives, directors and advisers of the defendant have at all times herein mentioned been selected from the most able and learned, experienced and

capable bankers and lawyers of the United States, and well and fully know the full extent of their every act herein complained of by the plaintiff; that all of the said acts hereinbefore set forth were mischievously, maliciously, willfully, intentionally and wantonly done by the defendant with the intent on the part of the defendant to injure the business of the plaintiff, and with the further intent on the part of the defendant of completely destroying the business of the plaintiff if the plaintiff would not accede to the illegal demand of the defendant whereby the defendant demanded that the plaintiff perform for the defendant services hereinbefore set forth without compensation;

That by reason of the acts and conduct of the defendant aforesaid; the plaintiff has been damaged and injured, in that it has been forced to procure unnecessarily and unusually large quantities of currency and money at a large expense; it has been required to keep a larger amount of reserve in cash in its vaults for a period of more than eighteen months and also larger amounts of money with its correspondent banks than it would otherwise have been required to keep; that it has lost the earning power of a great deal of money; has lost many old and good accounts of depositors; has been unable to develop new business; has suffered much annoyance, embarrassment, worry and expense in the conduct of its business and affairs; has lost many thousands of dollars of deposits from new and old depositors that would otherwise have been deposited with it; has failed to continue with the growth of its business; has greatly suffered and been damaged in its reputation and financial standing in the community in which it does business, and throughout the United States generally has been grossly and permanently injured, and the reputation and financial

standing of the plaintiff bank, generally, has been lost to it, and that many depositors have withdrawn their accounts from the custody and business control of the plaintiff; that new depositors have refrained from opening accounts and depositing their money with the plaintiff; and that the growth and prosperity of the plaintiff's banking business has been permanently injured by reason of the acts aforesaid so committed by the defendant and its agents and duly authorized representatives, in the sum of Fifty Thousand Dollars (\$50,000.00).

The plaintiff further says that all of the acts and conduct hereinbefore complained of and so committed by the defendant, its agents and duly authorized representatives, were committed as hereinbefore alleged with malice, knowledge and intent on the part of the defendant, and with the intent and desire to oppress, hinder, embarrass, annoy, injure and coerce the plaintiff; that the defendant bank was created under said Reserve Act with resources of many millions of dollars for the purpose of "Affording and furnishing a more elastic currency and more practical means of rediscounting commercial paper;" that the defendant has wilfully and intentionally perverted its functions as a Federal Reserve Banking institution; has violated the trust and confidence of the people of the United States, and has used and exerted its enormous power, resources and influence which the people of the United States have entrusted and invested with it for the malicious and wilful intent of injuring and destroying the banking business of the plaintiff, and with the malicious and oppressive intent of destroying the plaintiff's said banking business; that the defendant should be punished by reason of

the malicious, wilful, intentional and wanton character of the acts and conduct aforesaid, all of which were and are prompted by the bad motive as hereinbefore set forth, and in complete and utter disregard of its social and legal obligations, and likewise in disregard of the legal and lawful rights of the plaintiff; and that by reason thereof the plaintiff is entitled to exemplary damages against the defendant in the further sum of One Hundred Thousand Dollars (\$100,000.00).

WHEREFORE, the plaintiff, Farmers & Merchants Bank of Catlettsburg, Kentucky, prays for a judgment against the defendant Federal Reserve Bank of Cleveland in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), for its costs herein expended, and for any and all other relief to which it may appear to be entitled, either at law or in equity, as well as its costs herein expended.

John L. Smith

George B. Martin

Attorneys for the Plaintiff.