FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

June 6, 1924.
X-4075

SUBJECT: Opinion of Counsel re X-3953.

Dear Sir:

A reading of the report of the recent Governors' Conference discloses the fact that there is apparently some doubt in the minds of certain of the Governors as to the legality of the Federal reserve banks acting in accordance with the ruling of the Board as contained in its letter of January 25, 1924, X-3953, which permits Federal reserve banks to treat shipments of currency in transit to and from member banks as part of their lawful reserves, when applying the prescribed penalties for deficiencies.

For your information, there is enclosed herewith a copy of an opinion rendered by the Board's Counsel as to the legality of the practice in question.

Very truly yours,

D. R. Crissinger,
Governor.

Enclosure:

TO GOVERNORS OF ALL F. R. BANKS.

X-4075a

COPY

To Federal Reserve Board
From Mr. Wyatt, General Counsel

March 28, 1924.

SUBJECT: Currency in transit as legal reserve balances.

In the attached letter, Governor Strong of the Federal Reserve Bank of New York questions the Board's legal authority to permit Federal reserve banks to count currency in transit as part of the required reserve balances of member banks. His argument is based largely upon the language of Section 19 of the Federal Reserve Act, which provides in part that each member bank "shall hold and maintain with the Federal reserve bank of its district an actual net balance equal to not less *** than" a certain percentage of its deposits. In Governor Strong's opinion, this provision requires that member bank reserves must be kept on deposit with the Federal reserve bank and he argues that currency in transit can not be considered as held with the Federal reserve bank.

I agree with Governor Strong that the required reserve balances of member banks must be held with their Federal reserve banks, and I also agree that ordinarily currency in transit is not thus held. In legal contemplation, however, currency in transit may be considered to be held by a Federal reserve bank if the railroad company, the express company, or other carrier is legally its agent for the purpose of receiving and holding such currency. In the eyes of the law, custody and possession of an agent are the custody and possession of the principal. Currency in transit, therefore, will legally constitute part of the required reserves of a member bank, provided the carrier in such case is the agent of the Federal reserve bank and receives and holds such currency for the Federal reserve bank rather than for the member bank.

I have not sufficient information as to the arrangements which the several Federal reserve banks have made for shipping currency to and from their member banks to enable me to determine definitely whether the carrier is in fact the agent of the Federal reserve bank for the purpose of receiving and holding such currency. I understand, however, that the Federal reserve banks pay the transportation charges and insure such shipments in their own names, and if this is true it is a strong indication that the carriers are the agents of the Federal reserve banks. If it is decided to have the carriers act as the agents of the Federal reserve banks for this purpose, however, it would be advisable to cover the matter by express contracts with both the carriers and the member banks, in order that there may be no doubt as to the legal relation of the parties or the legal title to the currency. I can see no legal reason why arrangements to this end could not be made and if they are made, I believe that the Board would be acting within its legal authority in permitting Federal reserve banks to count currency in transit under such shipping arrangements as part of the reserve balances of their member banks. Unless, however, the carriers are the agents of the Federal reserve banks for the purpose of receiving and holding shipments of currency, I believe the Board has no authority to rule that currency in transit may be considered in computing reserve requirements or penalties for deficiencies in reserves of member banks.

The greater part of Governor Strong's letter deals with various practical reasons why it would be inadvisable to count currency in transit as part of member bank reserves. These considerations raise important questions of policy for the Board's determination and, in my opinion, this entire matter should be decided as a question of policy rather than of law.

Respectfully,

(Signed) WALTER WYATT, General Counsel.