

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO  
THE FEDERAL RESERVE BOARD

X-4122

July 18, 1924.

SUBJECT: Observance of Holidays.

Dear Sir:

There is enclosed herewith for your information and guidance copy of an opinion rendered by the General Counsel of the Federal Reserve Board, and formally concurred in by the Board, to the effect that a Federal reserve bank may not lawfully close and suspend all banking operations on any day unless such day is a legal holiday throughout its Federal reserve district.

By direction of the Federal Reserve Board.

Very truly yours,

J. C. Noell,  
Assistant Secretary.

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TO THE GOVERNORS AND CHAIRMEN OF ALL F. R. BANKS.

SUBJECT: Holidays of Federal Reserve Banks.

Questions have arisen involving the observance by Federal reserve banks of local, State, or national holidays and this office has been asked to prepare a memorandum discussing the right of Federal reserve banks to close on such days.

In my opinion a Federal reserve bank may not lawfully close and suspend all banking operations on any day unless such day is a legal holiday throughout its Federal reserve district. My reasons for this conclusion will be stated below.

It may be argued that if there is a legal holiday in the State in which a Federal reserve bank is located, the Federal reserve bank need not transact any business on that day and will not be held responsible for failure to transact business. This argument is based on the generally established principle that the laws of a State operate on Federal corporations doing business therein in the same way that they operate upon other persons and corporations within the State, unless such laws (1) are in conflict with acts of Congress regulating the Federal corporations, (2) frustrate the purpose for which the corporation was created, or (3) discriminate against Federal corporations. There is no provision of Federal law dealing with Federal reserve bank holidays with which a State statute declaring a State holiday might conflict and it can hardly be said that such a statute would frustrate the purpose for which Federal reserve banks are created, since observance of a holiday is not compulsory and for this reason the statute would not preclude Federal reserve banks from serving member banks in other States of their respective districts. It is obvious also that a statute declaring a State holiday would not discriminate against Federal reserve banks. The above argument appears to be sound in so far as concerns transactions within the State and it may be conceded that a State statute authorizing the cessation of secular business on a particular day would excuse a Federal reserve bank located in that State from performing any act within the State which was nominally required to be done on that day.

Federal reserve banks, however, are quasi-national institutions in the sense that the scope of their operations is not confined to a single State and consequently the right of a Federal reserve bank to cease all operations on a day which is a holiday in the State of its location cannot be determined by reference to the laws of that State alone. Federal reserve districts were expressly created under Section 2 of the Federal Reserve Act without regard to State lines, but rather with regard to the convenience and customary course of business, and the districts of all Federal reserve banks include parts or the whole of more than one State. Moreover, Section 4 of the Federal Reserve Act provides in part that directors of Federal reserve banks "shall administer the affairs of said bank fairly and impartially and without discrimination in

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favor of or against any member bank or banks," so that the operations of each Federal reserve bank must be carried on with due regard to all its member banks and not merely those in the State of its location.

In considering the right of a Federal reserve bank to close, there are two main points to be observed: (1) The general duty of a Federal reserve bank to give all its member banks the services contemplated by the Federal Reserve Act as the ordinary perquisites of membership, such as furnishing currency, extending credit, discounting paper, etc.; (2) The obligation of a Federal reserve bank under the Negotiable Instruments Law to perform the acts incidental to collecting checks and drafts forwarded to it by its member and nonmember clearing banks.

With regard to the first point noted above, the underlying purpose for which Federal reserve banks were created was to serve all the member banks within their several districts by supplying their currency and credit requirements. While there seems to be no specific provision of the Federal Reserve Act requiring Federal reserve banks to furnish currency or accommodation to their member banks at any particular time, it must be contemplated that these services should be rendered whenever reasonably needed by the member banks in the ordinary course of their business and clearly the underlying purpose of the Act would be frustrated if member banks in one State were deprived of the privileges of membership merely because of a holiday in some other State in which they were in no way concerned. If for example, a member bank in the District of Columbia, where there was no holiday, required immediate accommodation and was unable to obtain it because the Federal Reserve Bank of Richmond had closed its doors in observance of a State holiday in Virginia, it can hardly be doubted that the Federal reserve bank would have been derelict in its duty to serve its member banks. The point would be brought out even more forcefully if the member bank were in a critical condition and failed because it was unable to obtain the needed accommodation.

It must always be remembered that Federal reserve banks are necessarily called upon to transact business in other States than the States of their respective locations and while a Federal reserve bank may be excused from performance of acts within the State because of a holiday therein, acts to be performed in other States in its district are not affected by the holiday. It would seem clear, therefore, both from the standpoint of general legal obligation and of business policy that a Federal reserve bank, notwithstanding a local State holiday, should not sever its contact with member banks of other States, but should retain sufficient working force on hand to care for their legitimate needs.

With regard to the obligations of a Federal reserve bank incidental to the clearance and collection of checks, the same line of reasoning applies. Section 194 of the Negotiable Instruments Law, which has been adopted in every State except Georgia, provides generally "Where the day, or the last day, for doing any act herein required or permitted to be done, falls on Sunday or on

a holiday, the act may be done on the next succeeding secular or business day." With regard specifically to payment, Section 85 of the Negotiable Instruments Law provides "Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day." The normal acts required to be done in collecting a check or draft or other negotiable instrument are demand and presentment for payment, and protest in case of non-payment. These acts must be done at the place of payment, which is ordinarily stated in the instrument or, if not, is generally at the place of business or residence of the party primarily liable. If the place of payment of a check forwarded to a Federal reserve bank for collection is within the State in which the Federal reserve bank is located and the due date falls upon a holiday in that State, the Federal reserve bank is excused from the acts of demand, presentment and protest under the above quoted provisions of the Negotiable Instruments Law. If, however, a Federal reserve bank holds for collection a check payable in another State of its district, where there is no holiday, the acts incidental to collecting the check, being governed by the law of the place of payment, are in no way affected by the holiday in the State of the Federal reserve bank's location. In such a case the Federal reserve bank, although excused from transacting business within the State of its location, would be guilty of negligence if it failed to present the check for payment or protest for non-payment in the place where the check was payable. Since Federal reserve banks normally handle many checks payable without the States in which they are located they should be prepared to make due collection of such checks, irrespective of holidays affecting merely the States of their situs.

The above general principles are in my opinion equally applicable to Federal reserve branch banks, which also should not suspend all operations unless there is a holiday throughout the territory served by them.

In reaching the conclusion that a Federal reserve bank may not lawfully suspend all its banking activities unless there is a holiday affecting its entire district, I do not imply that the Federal reserve bank may not properly cut down its personnel to meet an expected decrease in the amount of business to be transacted on a certain day because of a holiday in some part of its district. This question is purely one of internal management and may properly be left to the discretion of the Federal reserve banks.