

January 5, 1926.

To: Federal Reserve Board
From: Mr. Wyatt, General Counsel

Subject: Mr. Platt's Proposed Bill regarding Branch Banking.

The opinion of this office has been requested with reference to the effect on existing law and the regulations of the Board if the attached draft of a bill to amend Section 5190 of the Revised Statutes is enacted.

In my opinion the effect would be:

1. To confirm by implication the Board's power to prescribe regulations and restrictions with reference to the establishment of branches, additional offices or agencies by State banks and trust companies which are members of the Federal Reserve System.

2. To enable the Comptroller of the Currency in his discretion to authorize national banks to open and operate one or more branches, additional offices or agencies under the following conditions:

(a) The Comptroller could authorize national banks to open and operate such branches, additional offices or agencies in any State where State banks are "authorized or permitted" to do so;

(b) The Comptroller could not authorize national banks to open or operate any branch, additional office or agency in any State where State banks are not "authorized or permitted" to do so;

(c) The establishment and operation of such branches, additional offices or agencies by national banks would be subject to such regulations and restrictions as the Federal Reserve Board might from time to time prescribe with reference to the establishment of branches, additional offices or agencies by State banks or trust companies which are members of the Federal Reserve System;

(d) The establishment of such branches, additional offices or agencies by national banks would not be subject to the requirements of the State law as to capital, public convenience, etc., unless required by the regulations of the Federal Reserve Board;

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(a) The Federal Reserve Board could make the establishment of such branches, additional offices or agencies by national banks subject to such provisions of the State law by prescribing that State banks which are members of the Federal Reserve System may establish branches, additional offices or agencies only after complying in all respects with the State law on the subject.

I may add that the words "authorized or permitted" are of special significance when used together in this way. The word "authorized" would apply to States in which State banks are expressly authorized by statute to open and operate branches, and the word "permitted" would apply to States where State banks are not expressly authorized by statute to open and operate branches but are permitted to do so through administrative rulings or through administrative acquiescence in the practice, where the State law does not expressly prohibit it.

The enactment of this proposed bill would not effect the Board's regulations in any way except to confirm the Board's power to prescribe such regulations regarding branches and impliedly to authorize the Board to prescribe regulations and restrictions governing this subject independently of conditions of membership prescribed by the Board and accepted by State banks prior to their admission to the Federal Reserve System.

I trust that this will give the Board all the information it desires. If not, I shall be very glad to elaborate this opinion or discuss the subject further.

Respectfully,

Walter Wyatt
General Counsel.

Draft of bill
attached.

X-4492a

(COPY)

A B I L L

To amend Section 5190 of the Revised Statutes of the United States, relating to branches of national banking associations and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5190 of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"Sec. 5190. The usual business of each national banking association shall be transacted at an office or banking house located in the place specified in its organization certificate: Provided, That subject to such regulations and restrictions as the Federal Reserve Board may from time to time prescribe with reference to the establishment of branches, additional offices or agencies by State banks or trust companies which are members of the Federal Reserve System, the Comptroller of the Currency may in his discretion authorize the opening and operation of one or more branches, additional offices, or agencies by a national banking association in any State where State banks or trust companies are authorized or permitted to open and operate branches, additional offices, or agencies, and not elsewhere."