FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4550

March 9, 1926.

Dear Sir:

There is enclosed herewith, for your information, copy of a letter received from the Governor of the Federal Reserve Bank of Dallas, in which the suggestion is renewed that there be employed permanently at a fixed retainer special counsel of outstanding ability to assist in litigation of system-wide interest, and to act as a clearing house for the legal departments of all Federal reserve banks.

The suggestion was made a topic for consideration at the last Governors' conference, and the conference voted to concur in the opinion of the Counsel of the Federal reserve banks voted at the joint meeting of those counsel on July 13, 1925 to the effect that it is not essential to the proper administration of the Federal reserve banks to employ advisory counsel for general supervision of legal matters affecting the System, and that the banks continue as heretofore to employ special counsel to assist in litigation of system-wide interest when in the judgment of counsel concerned the occasion requires it and the banks are agreeable.

In view of the statements contained in the enclosed letter from the Governor of the Federal Reserve Bank of Dallas, the Board requests that this matter be again made a subject of discussion at the forthcoming Governors' Conference.

Very truly yours,

D. R. Crissinger,
Governor.

(Enclosure)

TO GOVERNORS OF ALL F. R. BANKS.

(COPY) X-4550-a

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FEDERAL RESERVE BANK

OF DALLAS

January 28, 1926.

My dear Governor Crissinger:

This will acknowledge receipt of the Board's X letter 4510; and I wish to advise you that the Federal Reserve Bank of Dallas is willing to share in Mr. Baker's fee pro rata with the other Federal Reserve banks, provided the majority of the other banks concur in the view that it is proper for the expense to be pro rated.

In this connection, however, I wish to advise the Board that in our opinion the practice of employing outside counsel under such circumstances as the San Francisco case is not sound in principle. We agree to share in the expense pro rata because of our desire to cooperate with the majority view of the Federal Reserve banks.

You will recall that some time ago I submitted as a topic for discussion the proposition of all Federal Reserve banks employing a consulting attorney, but the matter met with the disapproval of the Conference of Counsels held last July in Washington. The Board seemed to be somewhat impressed with the views which I expressed on this subject in a previous letter and placed the topic on the program of the last Governors' Conference. When it was reached I was so aware that I was in a hopeless minority of one that I did not even attempt to defend it! The other Governors appeared to have been largely influenced by the action of the Counsels' Conference.

The matter of employing outside Counsel after a case has gone beyond the stages of the trial court has come up again in the San Francisco case which is now under review, and it seems to me more or less probable that some of the Governors may have changed their view. At the risk of appearing to discuss an issue which may be considered as having been definately passed, I am outlining below a little more in detail than I have heretofore, the reasons underlying our previous reference to the subject.

My idea of making this suggestion was to obtain the services of some capable lawyer who could coordinate the litigation of the various Federal Reserve banks through the medium of suggestions, his services being available only in the event a particular Federal Reserve bank desired to call upon him for information and advice. It was my idea that such an attorney would bear the same relation to the Federal Reserve Board as the other attorneys employed by the Federal Reserve banks, and that he would have no control over the legal departments of respective Federal Reserve banks, but would merely be available for use in those cases where a matter of general importance was presented, and a particular bank desired to use every precaution to insure the proper presentation of matters of general interest. He could also serve as a clearing house for legal information among the various banks.

The idea which led to my original suggestion was obtained from the practice prevailing among railroads in Texas and perhaps elsewhere, where each road has its own general attorney, but they all pro rate the expense of a consulting attorney whose services are used in much the same manner as above suggested.

We feel that the practice of employing outside counsel after a case has been taken to an appellate court is expensive, and probably insures no better presentation of the case than could be made by the general counsel of the bank involved, who has been familiar with the litigation from its inception. We also feel that there are many cases - such as the San Francisco case - which turn on facts peculiar to that particular case alone, but which involve principles of general importance. In such cases, we think it very valuable to know of similar experiences and litigation of other Federal Reserve banks at the beginning; but we very seriously doubt the wisdom of employing outside counsel after such a case has reached an appellate court.

If, after having obtained some later views of some of the other Governors, if you so desire, you think it would be worth while to place the topic on the program of the Governors' spring conference, I would be willing to lead the discussion and defend the merits of my proposal.

Yours very truly,

(signed) Lynn P. Talley

Governor

The Federal Reserve Board,
Washington, D. C.

Attention Mr. D. R. Crissinger, Governor.