FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 15, 1926.

Dear Sir:

As you probably know, under date of June 3, 1926, Congress adopted an act to consolidate, codify, and set forth the general and permanent laws of the United States in force December 7, 1925. This Act is known as "The Code of Laws of the United States of America."

The enacting provision provides that the Code "shall establish prima facie the laws of the United States, general and permanent in their nature, in force on the 7th day of December, 1925; but nothing in this Act shall be construed as repealing or amending any such law or as enacting as new law any matter contained in the Code. In case of any inconsistency arising through omissions or otherwise between the provisions of any section of this Code and the corresponding portion of the legislation heretofore enacted, effect shall be given for all purposes whatsoever to such enactments."

While the Code at present is thus only prima facie evidence of the law, it is planned to reenact it and give it the effect of repealing and superseding all law in force December 7, 1925, as soon as it is possible to discover and correct such errors as are contained in the Code in its present form. It is highly important, therefore, to discover and call attention to all important errors in the codification of the Federal Reserve Act and related statutes as soon as possible, in order that such statutes may not be amended unintentionally when the Code is given final effect.

A careful examination by this office of that part of the Code which corresponds to the provisions of the Federal Reserve Act has disclosed a number of omissions and inaccuracies which have been called to the attention of Congress. I enclose for your information a copy of a letter on this subject which the Board addressed to Honorable Roy G. Fitzgerald, Chairman of the House Committee on Revision of Laws under date of November 9, and also a copy of a memorandum prepared by this office calling attention to such errors and omissions as have been discovered. If in the course of your work you should discover any further errors in the codification of the Federal Reserve Act or related statutes, I should appreciate it if you will call such errors promptly to the attention of this office, in order that proper steps may be taken to have them corrected.

Preliminary copies of this Code, bound in buckram but without index or tables, can be purchased from the Government Printing Office for $3 per copy.

Very truly yours,

Walter Wyatt
General Counsel.

Enclosures.

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Federal Reserve Bank of St. Louis

November 9, 1926

Honorable Roy G. Fitzgerald, Chairman,
Committee on Revision of Laws,
House of Representatives,
Washington, D. C.

My dear Congressman :

The Federal Reserve Board has received a copy of the Code of the Laws of the United States passed by Congress June 30, 1926, and has noted your request, accompanying each volume of the Code, that those who use the Code inform your Committee of any omission or misstatement which may be discovered. In compliance with your request, Counsel to the Federal Reserve Board has made a careful examination of that part of the Code which corresponds to the provisions of the Federal Reserve Act, and has prepared a memorandum calling attention to a number of omissions and inaccuracies. A copy of this memorandum is enclosed herewith for the information of your committee.

Among the matters omitted from the Code are the sixth and seventh paragraphs of Section 2 of the Federal Reserve Act, which provide for the forfeiture of the franchises of national banks for failure to comply with the provisions of the Federal Reserve Act. It is probable that these provisions were omitted from the codification because the codifiers considered them obsolete. The first sentence of the 6th paragraph provides :

> "Should any national banking association in the United States now organized fail within one year after the passage of this Act to become a member bank or fail to comply with any of the provisions of this Act applicable thereto, all of the rights, privileges, and franchises of such association granted to it under the national-bank Act, or under the provisions of this Act, shall be thereby forfeited."

Because of the words "within one year after the passage of this Act", the codifiers evidently thought that this provision expired by limitation one year after the passage of the Federal Reserve Act; but such was not the intent of Congress. Congress intended that all national banks then in existence or which might subsequently be organized should become members of the Federal Reserve System and at all times comply with the provisions of the Federal Reserve Act. The words above quoted were inserted in the Act merely for the purpose of giving national banks then in existence one year within which to comply with the provisions of the Federal Reserve Act before they should be subjected to the forfeiture of their charters for failure to do so. Although the language of the law is not entirely clear, this was the obvious intent of Congress and this is the construction which has been given to the law and has been generally accepted as correct. The sixth and seventh paragraphs of

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the Federal Reserve Act, therefore, are not obsolete; and it is highly important that they be retained in the law, because they provide the most effective means of enforcing those provisions of the Federal Reserve Act which pertain to national banks.

The first sentence of the fourth paragraph of Section 10 of the Federal Reserve Act providing that the first meeting of the Federal Reserve Board shall be held in Washington has been omitted, apparently because it was considered obsolete. This provision, however, is still of importance in the determination of the location or situs of the Federal Reserve Board for suit or otherwise. The question of the situs of the Federal Reserve Board has already been raised in one important case, and this provision of law was one of the grounds upon which the Court based its opinion that the Federal Reserve Board is an inhabitant of the District of Columbia within the meaning of Section 51 of the Judicial Code.

Section 29 of the Federal Reserve Act which provides that if any part of the Act is adjudged invalid such invalidity shall not extend to other parts of the Act, has been omitted. This provision is an important one and should be retained, unless the Code contains a similar provision generally applicable to all the provisions of the Code. Such a general provision of the Code has not been found in the investigation made by the Board's Counsel.

Section 30 of the Federal Reserve Act which expressly reserves to Congress the right to amend, alter or repeal the Act is omitted. While the Board is of the opinion that Congress would have this right without an express reservation, the retention of such a provision in the law is believed to be very desirable because it effectively settles the question beyond any possibility of dispute. A similar provision of the National Bank Act was omitted when that Act was incorporated in the Revised Statutes of the United States, and such omission has given rise to much debate as to the right of Congress to amend certain provisions of the National Bank Act. A repetition of that unfortunate occurrence is undesirable.

Some of the errors in the codification which are mentioned in the enclosed memorandum, such as those in Sections 1, 92, 221 and 462 are unimportant, but are mentioned for the sake of accuracy and completeness. The errors occurring in the following sections of Title 12 of the Code, however, are important and should be corrected: 248(e), 248(1), 324, 327, 330, 331, 345, 346, 351, 373, 411, 412, 413, 414, 420, 422, 447, 448, 467, 482, 611, 613, 615, 616, 617, 619, 629, 630, 631, 943, 1222 and 1223; and also Section 771 of Title 31. Some of these errors very seriously affect the existing provisions of the Federal Reserve Act, and it is highly important that they be corrected before the Code is given the effect of superseding preexisting law. One or two of these errors will be discussed by way of illustration.

Section 327 of Title 12 of the Code corresponds to the seventh paragraph of Section 9 of the Federal Reserve Act, which authorizes the Federal Reserve Board to require any member bank which has failed to comply with the provisions of "this section" (i.e., Section 9 of the Federal Reserve Act) to

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surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership. Although this provision refers to the whole of Section 9 of the Federal Reserve Act, containing some twelve paragraphs which are incorporated in the Code as Sections 321 to 331, inclusive, the codifiers failed to change the words "this section" so as to refer to the other sections of the Code which correspond to the other paragraphs of Section 9 of the Federal Reserve Act. The result is that Section 327 of the Code is practically meaningless; and, if the Code should be given the effect of superseding preexisting law without correcting this mistake, it would deprive the Federal Reserve Board of this very important power to enforce the provisions of Section 9 of the Federal Reserve Act.

Section 412 of Title 12 of the Code would very seriously change the vitally important provisions of the law with reference to the character of collateral which may be pledged with the Federal Reserve Board to secure Federal Reserve notes. Thus the Code authorizes the pledging of notes, drafts and bills of exchange acquired under the provisions of Section 342 of the Code, whereas under that Section of the Code notes, drafts and bills of exchange may be acquired by Federal reserve banks only for purposes of collection, the Federal reserve banks acquire them merely as Agents, have no title to them, and could not properly pledge them as security for Federal Reserve notes. Section 412 of the Code also authorizes the pledging of acceptances acquired by Federal reserve banks under Section 372, whereas Section 372 merely confers power on member banks to issue bankers' acceptances. On the other hand, Section 412 of the Code omits reference to Section 359, which corresponds to Section 14(f) of the Federal Reserve Act, and thus would deprive Federal reserve banks of the right to pledge as collateral security to Federal Reserve notes acceptances of Federal Intermediate Credit Banks and National Agricultural Corporations which may now be purchased by Federal reserve banks under the provisions of Section 14(f). The important corrections which should be made in Section 412 are clearly indicated in the enclosed memorandum prepared by the Board's Counsel.

The Board cannot undertake to discuss in detail all of the errors in the Codification which would seriously affect the existing provisions of the Federal Reserve Act;, but they are pointed out in the enclosed memorandum, and the Board urges most strongly that the necessary corrections be made before the codification is given the effect of superseding preexisting law.

The Federal Reserve Board desires to do everything possible to assist you and your Committee in the important task of making this Code absolutely accurate and complete and hopes that you will call upon it if it can be of any further assistance to you in the matter. In this connection, the Board requests that it be given an opportunity of having its Counsel confer with your codification experts in order to make sure that the important mistakes in those portions of the codification which cover the provisions of the Federal Reserve Act may be corrected before the codification is given final effect.

Very truly yours,

D. R. Crissinger,
Governor

Enclosure.

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