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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED JULY 1, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Consolidated with National Bank:	
1	The Fitchburg Bank & Trust Co., Fitchburg, Mass., has consolidated with the Merchants National Bank, Worcester, Mass., under title of Worcester County National Bank, Worcester, Mass.	6-27-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Mechanicks National Bank, Concord, N. H.(Supplemental)	6-28-27
3	First National Bank, Conshohocken, Penna.	6-28-27
7	First National Bank, Flint, Mich. (Supplemental)	6-28-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED JULY 6, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Converted to National Bank:	
6	The Merchants Bank, Mobile, Alabama, has converted into the Merchants National Bank of Alabama.	6-21-27
12	The Centralia State Bank, Centralia, Washington, has converted into the First National Bank of Centralia.	7- 1-27
	Absorbed by National Bank:	
12	Orange County Trust & Savings Bank, Santa Ana, Calif., has been absorbed by the Bank of Italy National Trust & Savings Bank, San Francisco, Calif.	6-18-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Citizens National Bank, Tilton, N. H. (Supplemental)	7- 5-27
2	Gramatan National Bank, Bronxville, N. Y.	7- 7-27
3	First National Bank, Philadelphia, Pa.	7- 5-27
3	First National Bank, Sayre, Pa.	7- 1-27
4	First National Bank & Trust Co., Springfield, Ohio (Confirmatory)	7- 5-27
7	La Salla National Bank, La Salle, Ill. (Supplemental)	7- 5-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED JULY 15, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Merger of State Member Banks:	
2	The City Trust Company, Newark, N. J., and the Ironbound Trust Company, Newark, N. J., both members, have merged with and under the title of the Fidelity Union Trust Company, Newark, N. J., a member.	6-29-27
	Consolidation with National Bank:	
6	The American Trust & Savings Bank, Birmingham, Ala., a member, has consolidated with the Traders National Bank, Birmingham, Ala., under title of American Traders National Bank, Birmingham, Ala.	7-11-27
	Absorbed by Nonmember Bank:	
8	The Jonesboro Trust Co., Jonesboro, Ark., a member, has been absorbed by the American Trust Co., Jonesboro, Ark., a nonmember.	7-13-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Worcester County National Bank, Worcester, Mass.	6-27-27
2	Mechanics National Bank, Bayonne, N. J.	7-12-27
2	Caldwell National Bank, Caldwell, N. J.	7-12-27
2	Hanover National Bank, New York, N. Y. (Supplemental)	7-12-27
4	Citizens National Bank, Harlan, Ky.	7-12-27
6	Merchants National Bank, Mobile, Ala.	6-30-27
7	Second National Bank, Richmond, Ind. (Supplemental)	7-12-27
8	First National Bank, Madison, Ind.	7-12-27
8	Boone County National Bank, Columbia, Mo.(Supplemental)	7-12-27
10	First National Bank, Florence, Colo.	7-12-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED JULY 22, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Absorption of National Bank:	
9	The State Bank of Madelia, Madelia, Minn., a member, has absorbed the First National Bank of Madelia.	7-15-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

3	First National Bank, Princeton, N. J. (Supplemental)	7-21-27
3	First National Bank, Ashley, Pa.	7-21-27
4	Second National Bank, Warren, Ohio (Supplemental)	7-21-27
6	Third National Bank, Nashville, Tenn.	7-21-27
7	City National Bank, Clinton, Iowa (Supplemental)	7-21-27
10	National Bank of Commerce, Tulsa, Okla.	7-21-27
12	United States National Bank, Los Angeles, Calif.	7-21-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED JULY 29, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist. No.		Capital	Surplus	Total resources	Date
2	Columbus Trust Co., Newark, N. J.	$200,000	$100,000	$320,000	7-23-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	National Tradesmens Bank and Trust Co., New Haven, Conn. (Supplemental)	7-28-27
1	Blackstone Canal National Bank, Providence, R. I.	7-28-27
2	Columbus National Bank, Paterson, N. J.	7-28-27
4	Mahoning National Bank, Youngstown, Ohio (Supplemental)	7-28-27
7	First National Bank, Janesville, Wis. (Supplemental)	7-28-27
8	First National Bank, Belleville, Ill. (Supplemental)	7-28-27
9	Union National Bank, Eau Claire, Wis.	7-28-27
12	First National Trust and Savings Bank, Whittier, Calif. (Confirmatory)	7-28-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED AUGUST 5, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Consolidated with National Bank:	
6	The Bank and Trust Company, Talladega, Ala., has consolidated with the Talladega National Bank.	8- 1-27
	Converted to National Bank:	
11	The Peoples State Bank, Tyler, Texas, has converted into the Peoples National Bank of Tyler.	7-30-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

10	Exchange National Bank, Hutchinson, Kans.	7-25-27
10	American National Bank, Okmulgee, Okla.	8- 2-27
12	First National Bank, Los Angeles, Calif.	7-29-27

FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED AUGUST 12, 1927

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist. No.		Capital	Surplus	Total resources	Date
3	Miners Deposit Bank and Trust Company, Lykens, Pa.	$135,000	$115,000	$1,446,000	8-10-27
7	Peoples State Bank, Shannon, Illinois	40,000	9,000	262,190	8-8-27
11	Guaranty State Bank, San Antonio, Texas	300,000	300,000	5,472,495	8-5-27
12	Peoples Bank and Trust Co. Seattle, Washington	500,000	100,000	7,899,740	8-12-27

VOLUNTARY WITHDRAWAL

12	Commercial Bank of Turlock, Turlock California	8-5-27

MERGER OF STATE MEMBER BANKS

2	The Commonwealth Bank of the City of New York, New York and the Manufacturers Trust Company have merged under the title of the Manufacturers Trust Company, New York.	7-29-27
2	The Standard Bank, New York, New York and the Manufacturers Trust Company have merged under the title of the Manufacturers Trust Company, New York.	7-29-27

CONSOLIDATION WITH STATE BANK.

7	The Commercial State Savings Bank, Detroit, Michigan, has consolidated with the Commonwealth Federal Savings Bank, Detroit, Michigan.	6-27-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS.

2	Franklin National Bank, Nutley, New Jersey.	8-10-27
2	First National Bank, Rockville Center, New York.	8-10-27
3	Merchants National Bank, Shenandoah, Penn.	8-10-27
3	Tioga National Bank, Philadelphia, Penn.	8-10-27
3	Broad Street National Bank, Philadelphia (Supplemental)	8-10-27
3	Audubon National Bank, Audubon, New Jersey	8-10-27
3	First Camden National Bank and Trust Co., Camden, N. J.	8-10-27
4	Commercial National Bank, Coshocton, Ohio (Supplemental)	8-11-27
5	Empire National Bank, Clarksburg, W. Va. (Supplemental)	8-10-27
5	First National Bank, Thomasville, N. C.	8-10-27

Federal Reserve Board Announcement week ended August 12, (continued)

PERMISSION GRANTED TO EXERCISE TRUST POWERS

6	National City Bank, Rome, Georgia.	8-11-27
7	First National Bank, Berwyn, Illinois.	8-10-27
8	Peoples National Bank, Washington, Indiana.	8-11-27
10	First National Bank in Ada, Ada, Oklahoma.	8-10-27
10	Okemah National Bank, Okemah, Oklahoma.	8-10-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED AUGUST 19, 1927

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist.		Date
	None.	

Succeeded by State Member:

3	The Miners Deposit Bank, Lykens, Pa., a member, has been succeeded by the Miners Deposit Bank & Trust Co., Lykens, Pa., a member.	7- 1-27

Closed:

7	Malcom Savings Bank, Malcom, Iowa	8-12-27

Voluntary Liquidation:

7	Wakefield State Bank, Morenci, Mich.	8-16-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	First National Bank, Highland Park, N. J.	8-17-27
2	First National Bank, Bay Shore, N. Y.	8-17-27
5	Waynesboro National Bank, Waynesboro, Va.	8-17-27
8	First National Bank, Mayfield, Ky. (Supplemental)	8-17-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED AUGUST 26, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Converted to National Bank:	
9	Columbia State Bank, Columbia Heights, Minn.	8-15-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	Labor National Bank, Newark, N. J.	8-24-27
2	Prospect National Bank of Brooklyn in New York, N. Y.	8-24-27
2	Valley Stream National Bank, Valley Stream, New York.	8-24-27
6	Isbell National Bank, Talladega, Ala.	8-24-27
7	National Bank of Decatur, Decatur, Ill. (Supplemental)	8-24-27
8	Peoples National Bank, Paducah, Ky.	8-24-27
11	Fort Worth National Bank, Fort Worth, Texas.(Confirmatory)	8-24-27
12	Citizens National Bank, Riverside, Calif.	8-24-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED SEPTEMBER 2, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist.		Capital	Surplus	Total resources	Date
7	Fordson State Bank, Fordson, Mich.	$200,000	$40,000	$841,964	9- 1-27

Merged with Nonmember:

3 The West Side Trust Co., Kingston, Pa., a member, has merged with the Kingston Bank & Trust Co., Kingston, Pa., a nonmember. 9- 1-27

Consolidated with National Bank:

12 The Pacific Southwest Trust & Savings Bank, Los Angeles, Calif., a member, has consolidated with the First National Bank of Los Angeles. 9- 1-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	First National Bank, Cranbury, N. J.	(Supplemental)	8-30-27
3	First National Bank, Barnegat, N. J.		8-30-27
3	National Bank of Olney in Philadelphia, Pa.		8-30-27
4	Montgomery National Bank, Mount Sterling, Ky.		9- 1-27
5	Farmers and Mechanics National Bank, Westminster, Md.		9- 2-27
5	Farmers and Merchants National Bank, Radford, Va.		8-30-27
6	Central National Bank, Albany, Ala.		9- 2-27
6	American-Traders National Bank, Birmingham, Ala.	(Confirmatory)	8-30-27
7	First National Bank, La Porte, Ind.	(Supplemental)	9- 2-27
7	First National Bank, Red Oak, Iowa	(Supplemental)	8-30-27
11	Citizens National Bank, Tyler, Texas	(Supplemental)	8-30-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED SEPTEMBER 9, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Voluntary Withdrawals:	
7	Columbia State Savings Bank, Chicago, Ill.	9- 6-27
6	American Trust Company, Jacksonville, Fla.	9- 3-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	Peoples National Bank, Irvington, N. J.	9- 8-27
6	First National Bank, Perry, Fla.	9- 6-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED SEPTEMBER 16, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Closed:	
4	Farmers State Bank, Eldorado, Ohio	9-13-27
6	Farmers & Merchants Bank, Girard, Ga.	9-13-27
7	Farmers State Bank, Vail, Iowa	9-14-27
	Voluntary Withdrawal:	
7	Farmers & Merchants Savings Bank, Tipton, Iowa	9-12-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	National Bank of Skaneateles, Skaneateles, N. Y.	9-14-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED SEPTEMBER 23, 1927

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Absorption of Nonmember:	
2	The Newark Trust Co., Newark, N. J., a nonmember, has merged with the Merchants Trust Co., Newark, N. J., a member, under title of the Merchants and Newark Trust Company.	9-17-27
	Voluntary Withdrawal:	
9	Bradley Bank, Tomahawk, Wis.	9-12-27
	Closed:	
10	Home State Bank, Anthony, Kans.	9-19-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Sanford National Bank, Sanford, Maine	9-20-27
1	First National Bank, Springfield, Vt.(Supplemental)	9-20-27
4	Atlas National Bank, Cincinnati, Ohio(Supplemental)	9-20-27
7	Sterling National Bank, Sterling, Ill.	9-23-27
7	Citizens National Bank, Charles City, Iowa	9-23-27
7	Louisa County National Bank, Columbus Junction, Ia.	9-20-27
7	Central National Bank, Battle Creek, Mich. (Supplemental)	9-23-27
8	First National Bank, Princeton, Ky. (Supplemental)	9-20-27
8	Farmers National Bank, Glasgow, Ky. (Supplemental)	9-20-27
11	Farmers & Merchants National Bank, Abilene, Texas	9-23-27
11	Marshall National Bank, Marshall, Texas (Supplemental)	9-23-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED SEPTEMBER 30, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Capital	Surplus	Resources	Date
	Admitted to Membership:				
2	Trust Company of Orange, Orange, N. J.	$700,000	$250,000	$2,587,018	9-30-27
3	Dollar State Bank & Trust Co., Scranton, Pa.	196,950	40,370	1,273,162	9-30-27
	Voluntary Withdrawal:				
6	Evangeline Bank & Trust Co., Ville Platte, La.				9-28-27

AUTHORIZED TO ACCEPT DRAFTS AND BILLS OF EXCHANGE UP TO 100 PER CENT OF CAPITAL AND SURPLUS

1	Rhode Island Hospital Trust Co., Providence, R. I.	9-20-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Second National Bank, Nashua, N. H. (Supplemental)	9-27-27
6	Talladega National Bank, Talladega, Ala. (Confirmatory)	9-27-27
9	First National Bank, Calumet, Mich.	9-27-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED OCTOBER 7, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Merger between State Members:	
2	The Springfield Avenue Trust Co., Newark, N. J., has merged with and under the title of the Federal Trust Co., Newark, N. J.	9-30-27
	Withdrawal:	
11	First State Bank, Seminole, Texas (on account of expiration of State charter)	10- 1-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

3	Peoples National Bank, Pemberton, N. J.	8- 3-27
2	First National Bank, West New York, N. J.	10- 5-27
2	First National Bank, St. Johnsville, N. Y.	10- 5-27
4	First National Bank & Trust Co., Covington, Ky. (Supplemental)	10- 5-27
6	First National Bank, Fayette, Ala.	10- 5-27
7	First National Bank, Joliet, Ill. (Supplemental)	10- 5-27
7	Citizens National Bank, Tipton, Ind. (Supplemental)	10- 7-27
7	United States National Bank, Kenosha, Wis.	10- 7-27
9	First National Bank, Laurium, Mich.	10- 5-27
10	American National Bank, Bristow, Okla.	10- 5-27
11	First National Bank, Bonham, Texas (Supplemental)	10- 5-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED OCTOBER 14, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Closed:	
6	Wartrace Bank & Trust Co., Wartrace, Tenn.	10-11-27
	Change of Title:	
8	The City Trust Co., St. Louis, Mo., has changed its title to Fidelity Bank & Trust Co.	10-11-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

3	Second National Bank, Altoona, Pa.	10-12-27
6	First National Bank, Statesboro, Ga.	10-12-27
9	First National Bank in Minneapolis, Minn.	10-12-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED OCTOBER 21, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist. No.		Date
	None.	

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	Little Falls National Bank, Little Falls, N. J.	10-20-27
7	Continental & Commercial National Bank, Chicago, Ill.	10-18-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED OCTOBER 28, 1927

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Converted to National Bank:	
2	Mutual Bank, New York, N. Y. (converted to Mutual National Bank of the City of New York).	10-22-27
	Absorption of Nonmember:	
3	The Camden Safe Deposit & Trust Co., Camden, N. J., a member bank, has absorbed the Central Trust Co., Camden, N. J., a nonmember.	9-30-27
	Change of Title:	
8	The Bank of Maplewood, Maplewood, Mo., has changed its title to Bank of Maplewood and Trust Company.	10-18-27
	Absorbed by Nonmember:	
11	First State Bank & Trust Co., Hereford, Texas, a member, has been absorbed by First State Bank, Hereford, Texas, a nonmember.	10-24-27
	Absorption of National Bank:	
11	The Junction State Bank, Junction, Texas, a member, has absorbed the First National Bank of Junction, Texas.	9-29-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

4	First National Bank and Trust Co., Waynesburg, Pa.	10-24-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED NOVEMBER 4, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Capital	Surplus	Total resources	Date
	Admitted to Membership:				
12	American Exchange Bank, Portland, Oreg.	$200,000	$50,000	$3,234,651	10-29-27
	Reopened:				
4	The Farmers State Bank, Eldorado, Ohio.				10-29-27
	Closed:				
7	County Savings Bank, Algona, Iowa.				10-29-27
	Withdrawal:				
11	The First State Bank, Normangee, Texas, has withdrawn on account of expiration of its State charter.				10-29-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Berlin National Bank, Berlin, N. H.	10-31-27
2	Matteawan National Bank, Beacon, N. Y.	11- 4-27
3	National Security Bank, Philadelphia, Pa.	11- 4-27
3	National Bank of Schwenksville, Penna.	11- 4-27
7	First National Bank, Lansington, Mich.	11- 4-27
8	Lee County National Bank, Marianna, Ark. (Supplemental)	11- 4-27
8	Security National Bank, Jackson, Tenn.	10-31-27
12	Los Angeles-First Nat. Trust & Savings Bank, Los Angeles, Cal. (Confirmatory)	11- 4-27
12	First National Bank, Ogden, Utah.	11- 4-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED NOVEMBER 11, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist.		Date
	Admitted to Membership:	
	None.	
	Absorption of National Banks:	
2	The Hamilton Trust Co., Paterson, N. J., a member, has absorbed the Totowa National Bank, Paterson, N. J.	11- 1-27
7	The American Commercial & Savings Bank, Davenport, Ia., a member, has absorbed the Iowa National Bank, Davenport, Ia.	10-31-27
	Voluntary Withdrawals:	
1	Merrill Trust Co., Bangor, Maine.	11- 9-27
9	Farmers State Bank, Hayfield, Minn.	10-31-27
9	State Bank of New Richland, New Richland, Minn.	7-14-27
	Voluntary Liquidation:	
11	First State Bank, Trenton, Texas.	11- 2-27
	AUTHORIZED TO ACCEPT DRAFTS AND BILLS OF EXCHANGE UP TO 100 PER CENT OF CAPITAL AND SURPLUS:	
12	Citizens National Bank, Los Angeles, Calif.	11-10-27
	PERMISSION GRANTED TO EXERCISE TRUST POWERS.	
2	Broad & Market National Bank & Trust Co., Newark, N. J. (Confirmatory)	11- 8-27
2	Central National Bank, New Rochelle, N. Y.	11- 8-27
2	Manufacturers National Bank, Troy, N. Y. (Confirmatory)	11- 8-27
5	Liberty National Bank, Washington, D. C..	11- 8-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED NOVEMBER 18, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Admitted to Membership:

Dist.		Date
	None.	

Voluntary Withdrawal:

7	Cicero Trust & Savings Bank, Cicero, Ill.	11-14-27

Closed:

7	First Trust & Savings Bank, Rock Island, Ill.	11-18-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	First National Bank, Northport, N. Y.	11-17-27
5	Peoples National Bank, Chester, S. C.	11-17-27
7	First National Bank, Mishawaka, Ind. (Supplemental)	11-17-27
7	First National Bank, Russiaville, Ind.(Supplemental)	11-17-27
12	First National Trust & Savings Bank, San Diego, Calif. (Confirmatory)	11-17-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED NOVEMBER 25, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Converted to National Bank:	
8	Exchange Bank, Jefferson City, Mo.	11- 8-27
	Succeeded by a Nonmember:	
12	Security Trust Co., Bakersfield, Calif.	11-21-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

1	Liberty National Bank, Ellsworth, Maine	11-21-27
2	National Bank of Niagara & Trust Co., Niagara Falls, N. Y. (Confirmatory)	11-25-27
2	Cayuga County National Bank, Auburn, N. Y. (Supplemental)	11-25-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED DECEMBER 2, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Voluntary Withdrawal:	
9	Bank of Boulder, Boulder, Mont.	11-25-27
	PERMISSION GRANTED TO EXERCISE TRUST POWERS:	
2	Mount Prospect National Bank, Newark, N. J.	11-26-27
3	National Bank of Shamokin, Shamokin, Pa.	11-30-27
3	Swarthmore National Bank, Swarthmore, Pa.	11-30-27
6	Houston National Bank, Dothan, Ala.(Supplemental)	11-26-27
8	First National Bank, Greenwood, Miss.(Supplemental)	11-26-27
10	Rubey National Bank, Golden, Colo.	11-26-27
12	First National Bank, Orange, Calif.	11-26-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED DECEMBER 3, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Capital	Surplus	Total resources	Date
	Admitted to Membership:				
10	Fidelity Savings State Bank, Topeka, Kans.	$200,000	$40,000	$1,637,273	12- 5-27
	Change of Title:				
6	The Engineers Bank & Trust Company, Birmingham, Ala., has changed its title to Southern Bank & Trust Company.				11-22-27
	Closed:				
11	Avery State Bank, Avery, Texas.				12- 6-27
	Voluntary Withdrawal:				
6	Bank of Locust Grove, Locust Grove, Ga.				12- 8-27
	Absorbed by nonmember:				
11	First Guaranty State Bank, Tioga, Texas, a member, has been absorbed by the First State Bank, Tioga, Texas, a nonmember.				12- 2-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

3	Lewisburg National Bank, Lewisburg, Pa.	12- 6-27
6	Merchants National Bank, Vicksburg, Miss.	12- 6-27
7	National Builders Bank, Chicago, Ill.	12- 8-27
7	First National Bank, Paris, Ill.	12- 5-27
8	McDaniel National Bank, Springfield, Mo.	12- 5-27

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FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED DECEMBER 16, 1927

CHANGES IN STATE BANK MEMBERSHIP:

None.

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

Dist. No.		Date
1	Commercial Security National Bank, Boston, Mass.	12-14-27
1	National Grand Bank, Marblehead, Mass.	12-14-27
4	First National Bank, Pikeville, Ky.	12-16-27
4	First National Bank, Bellaire, Ohio (Supplemental)	12-16-27
4	Merchants National Bank & Trust Co., Dayton, Ohio (Supplemental)	12-16-27
4	First National Bank & Trust Co., Hamilton, Ohio (Sup.)	12-16-27
4	Exchange National Bank, Pittsburgh, Pa.	12-16-27
7	Continental National Bank & Trust Co., Chicago, Ill. (Confirmatory)	12-16-27
11	Citizens National Bank, Waco, Texas	12-14-27

X-1530

FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED DECEMBER 23, 1927.

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Capital	Surplus	Total resources	Date
	Admitted to Membership:				
2	People's Trust Co., Dunellen, N. J.	$100,000	$50,000	$150,000	12-19-27
2	The Cohocton State Bank, Cohocton, N. Y.	50,000	25,000	613,999	12-21-27
10	First Security Bank, Rock Springs, Wyo.	100,000	100,000	2,576,334	12-20-27
	Voluntary Withdrawal:				
8	Planters Bank & Trust Co., Ruleville, Miss.				12-20-27
	Absorbed by National Bank:				
11	First State Bank, Richland, Texas (absorbed by First National Bank of Richland, Tex.)				11-11-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

2	Irvington National Bank, Irvington, N. J.	12-20-27
2	National Bank of Cortland, Cortland, N. Y.	12-20-27
2	Wheatley Hills National Bank, Westbury, N. Y.	12-20-27
3	Drovers & Mechanics National Bank, York, Pa.	12-20-27
6	First National Bank, Mobile, Ala. (Supplemental)	12-20-27
6	National Bank of Gulfport, Gulfport, Miss.	12-22-27
6	Farmers National Bank, Winchester, Tenn.	12-20-27
7	Farmers and First National Bank, New Castle, Ind. (Confirmatory)	12-22-27

X-1530

FEDERAL RESERVE BOARD ANNOUNCEMENT
WEEK ENDED DECEMBER 30, 1927

CHANGES IN STATE BANK MEMBERSHIP:

Dist. No.		Date
	Admitted to Membership:	
	None.	
	Succeeded by Nonmember:	
11	First State Bank, Denton, Texas (succeeded by First State Bank of Denton)	12-13-27
11	First State Bank, Wolfe City, Texas (succeeded by First State Bank of Wolfe City)	12-24-27

PERMISSION GRANTED TO EXERCISE TRUST POWERS:

7	First National Bank, Dysart, Iowa	12-29-27
11	Commercial National Bank, Shreveport, La. (Supplemental)	12-29-27

C O P Y X-4897

No. 110

In the Supreme Court of Arkansas, June 27, 1927

The Hicks Company, Ltd., vs. Federal Reserve Bank of St. Louis

MEHAFFY, J.

The appellant, plaintiff below, filed the following complaint:

"The plaintiff, for its cause of action against the defendant, alleges:

"First: That the plaintiff is a corporation organized and existing under and by virtue of the laws of the State of Louisiana, and is engaged in the wholesale grocer business in said State, with its principal office in Shreveport, Louisiana, and branch office at Minden, Louisiana.

"Second: The defendant is a banking corporation organized and existing under and by virtue of the laws of the United States with its principal office in St. Louis, Missouri, and was at all times hereinafter mentioned and is now under and by virtue of the laws of the United States operating a branch bank known as the Little Rock Branch Federal Reserve Bank of St. Louis, in Little Rock, Arkansas.

"Third: That on or about the - - - - - day of December, 1923, H. T. Dickens of Bussey, Columbia County, Arkansas, was indebted to the plaintiff upon account in the sum of $897.44, and mailed his check drawn on the Bank of Taylor, of Taylor, Columbia County, Arkansas, for the sum of $897.44, in settlement of said account; that said check was mailed by the said H. T. Dickens at Bussey, Arkansas, to the plaintiff at Minden, Louisiana, and was received and the amount credited to the account of H. T. Dickens by the plaintiff on or

about the - - - - - day of December, 1923.

"Fourth: That on or about the - - - - - day of December, 1923, G. W. Brown, of Taylor, Columbia County, Arkansas was indebted to the Plaintiff upon account in the sum of $806.47, and mailed his check drawn on the Bank of Taylor, of Taylor, Columbia County, Arkansas, for the sum of $806.47 in settlement of said account; that said check was mailed by the said G. W. Brown at Taylor, Arkansas, to the Plaintiff at Minden, Louisiana, and was received and the amount credited to the account of G. W. Brown by the plaintiff on or about the _____day of December, 1923.

"Fifth; That on or about the _____ day of December, 1923, as soon as said checks were received by the plaintiff, it deposited said checks in the Bank of Minden, of Minden, Louisiana, for collection; that the First National Bank of Shreveport immediately indorsed and transmitted said checks for collection to the defendant at Little Rock, Arkansas; that on or about the _____ day of December, 1923, the defendant transmitted the aforesaid checks, together with other checks to the Bank of Taylor, Taylor, Arkansas, for collection and return.

"Sixth: That on the _____ day of December, 1923, the said Bank of Taylor received said checks drawn on it as aforesaid and stamped said checks "Paid" and charged to the accounts of H. T. Dickens and G. W. Brown, the said Dickens and Brown each having more to their credit in the Bank of Taylor than the amount of each of said checks, and on the same day the said Bank of Taylor transmitted to the defendant its draft on the Bankers Trust Company of Little Rock, Arkansas, for the aggregate amount of the checks, including the two checks sued on herein; that the defendant, immediately upon its

receipt; presented said checks to the Bankers Trust Company of Little Rock, Arkansas, for payment, and payment was refused, the Bank of Taylor having been placed in the hands of the State Bank Commissioner, notice of which had been received by the Bankers Trust Company; That the plaintiff does not know whether the payment of said checks was refused on account of insufficient funds or whether it was on account of having received notice that said bank has been taken in charge of by the State Bank Commissioner. That the defendant thereafter charged the amount of said checks to its immediate correspondent, First National Bank of Shreveport, and the First National Bank of Shreveport immediately charged the amount of said checks back to the Bank of Minden, who in turn charged the amount of said checks back to this plaintiff.

"Seventh: Plaintiff alleges that the defendant was negligent in not requiring the Bank of Taylor to pay the amount of said checks in money and in accepting in payment of said checks a draft drawn on the Bankers Trust Company of Little Rock, Arkansas, which proved to be worthless; that the plaintiff by reason of said negligence suffered damages in the sum of $1,703.91, the amount of said checks.

"Wherefore, premises considered, plaintiff prays judgment against said defendant for its damages aforesaid in the sum of $1,703.91. together with interest, cost, and all other and proper relief."

Appellee, defendant below, filed demurrer and answer which are as follows:

"The defendant demurs to the complaint herein because the same does not state a cause of action, and in no wise waiving said de-

murrer but specially reserving and standing upon the same, defendant, by leave of court, answers and says:

"1. Defendant is not liable to the plaintiff because at the time the checks in question were forwarded by the defendant to the Bank of Taylor, upon which they were drawn by H. T. Dickens and G. W. Brown, the said Bank of Taylor was insolvent.

"2. The defendant denies that it is liable to the plaintiff and says that it has no contractual relations with the plaintiff; that there is no privity of contract between the plaintiff and defendant, as the defendant received such checks through the Federal Reserve Bank of Dallas, such checks being direct routed to the defendant by the First National Bank of Shreveport by the consent only of the Federal Reserve Bank of Dallas, with directions to defendant to transmit the proceeds of the checks, if collected, to the Federal Reserve Bank of Dallas. Defendant is responsible, therefore, if liable at all, which it denies, only to the Federal Reserve Bank of Dallas.

"3. Defendant is not liable in any event because it was agreed between the First National Bank of Shreveport and the Federal Reserve Bank of Dallas that all checks for collection, such as those involved in this action, might be forwarded to the drawee bank and a bank draft accepted therefor in payment. That the Federal Reserve Bank of Dallas published a notice to this effect to all of its correspondent and member banks, including the First National Bank of Shreveport, which directly assented thereto and was bound by such regulation, and all the customers of the First National Bank of Shreveport, forwarding checks for collection through the Federal Reserve Bank of Dallas and, by its

permission, direct routing checks to its correspondent banks, were bound by such regulation. That the defendant, on its own part, had given notice to all of its correspondents, including the Federal Reserve Bank of Dallas, that it would forward checks for collection to the drawee bank and accept in payment therefor a bank draft, and that the Federal Reserve Bank of Dallas, the First National Bank of Shreveport, and all banks for whom defendant undertook to collect checks, assented to and were bound by such notice.

"4. Defendant saving and reserving all of its defenses heretofore set up, says that it is not liable to the plaintiff in any event on account of the alleged negligent act complained of, because after such checks had been forwarded to the Bank of Taylor, and after the Bank of Taylor had remitted to pay the same by a bank draft drawn on the Bankers Trust Company of Little Rock, and after such draft was dishonored by the Bankers Trust Company of Little Rock because of the insolvency of the Bank of Taylor, and after notice of such fact had come to the knowledge of the plaintiff, the plaintiff elected to hold the Bank of Taylor and ratified the act of the defendant by filing claim with the State Bank Commissioner against the Bank of Taylor, seeking to collect the proceeds of such checks from such drawee bank. The defendant pleads such ratification in bar of the plaintiff's claim hereunder."

Thereafter the defendant filed the following amendment to its answer: "The defendant only undertook to collect checks or forward the same for collection under the lawful conditions set forth by regulations published by the Federal Reserve Board and in force and effect at the time of the transactions complained of, particularly

regulation J. Series of 1920, and the conditions and terms for the collection of checks set forth in Circular No. 6, Series of 1922, dated December 20, 1922, lawfully published by the defendant, and the terms and conditions in Circular No. 19, Series of 1923, dated September 24, 1923, lawfully published by the Federal Reserve Bank of Dallas, all of which regulations, terms, and conditions fully bound the plaintiff and by which it is provided that checks received by the defendant might be forwarded for collection to the drawee bank and an exchange draft accepted therefor and the checks released to the drawee bank, all of which the defendant pleads in defense of the plaintiff's cause of action."

This case was submitted upon an agreed statement of facts and certain evidence. The agreed statement of facts is as follows:

"The following statement is agreed upon as the facts upon which this case may be submitted. (In the event of an appeal by either party, only relevant portions of the publications and circulars attached as exhibits hereto will be carried into the record; such relevant portions will be indicated by underscoring those parts of such documents as are read in evidence by either party at the trial hereof.)

"The plaintiff, the Bank of Minden and the First National Bank of Shreveport, are domiciled in the district of the Federal Reserve Bank of Dallas. The First National Bank of Shreveport is a member bank of the Federal Reserve System, Dallas District. The Bank of Minden is not a member.

"If forwarded for collection through a Federal Reserve Bank, the checks involved in this action would have been cleared through the Dallas Bank, unless under regulations published to member and

non-member banks, permission had been obtained from the Dallas Bank for direct forwarding through a Federal Reserve Bank of another district. In which latter event, the proceeds would be cleared through the Dallas Bank and the collection made under terms and conditions governing the clearance and collection of checks published by the Dallas bank.

"The Bank of Taylor was in the district of the Federal Reserve Bank of St. Louis. The checks involved in this action were sent direct to the Little Rock Branch of the Federal Reserve Bank of St. Louis by permission obtained by the First National Bank of Shreveport from the Federal Reserve Bank of Dallas. The Federal Reserve Bank of St. Louis and the Federal Reserve Bank of Dallas had published regulations governing the terms and conditions upon which either of them would collect checks or forward the same for collection. These regulations were known to the First National Bank of Shreveport, and no collection business was accepted by either of the Federal Reserve Banks, or any branch thereof, except subject to the conditions of such regulations. The officers of the Bank of Minden would testify that these regulations were unknown to them.

"A copy of the regulations in force by the St. Louis Bank, designated as Circular No. 6, Series of 1922, dated December 20, 1922, is attached and made a part of this agreement as Exhibit 1, and a copy of the regulations in force by the Dallas Bank, designated as Circular No. 10, series of 1923, dated September 24, 1923, is attached and made a part of this agreement as Exhibit 2. A copy of the regulations adopted by the Federal Reserve Board, Series of 1920, is attached and made a part of this agreement as Exhibit 3.

"After the failure of the Bank of Taylor, defendant was authorized by the Federal Reserve Bank of Dallas to file claims with the receiver of the failed bank in behalf of its indorsers, which authorization included the sum claimed by Hicks Company, Ltd., A copy of this authorization, dated February 27, 1924, is attached to this agreement as Exhibit 4. The items of $806.47 and $897.44 representing the checks which had been deposited for collection by the plaintiff with the Bank of Minden and forwarded by that bank to the First National Bank of Shreveport, a member bank of the Dallas Federal Reserve District.

"The First National Bank of Shreveport was authorized by the Bank of Minden to file a claim with the receiver of the failed bank as to the above two items. This was by letter dated February 8, 1924, as shown by letter of the First National Bank of Shreveport, dated September 17, 1925, attached hereto as Exhibit 5.

"Correspondence between Hicks Company, Ltd., and the defendant occurred as shown by letters dated May 12, 13, and 14, 1924, attached hereto as Exhibits 6, 7 and 8.

"Direct forwarding of checks for collection from banks in the Dallas District to the Federal Reserve Bank of St. Louis was authorized by the Dallas Bank, April 20, 1922, as shown by letters attached hereto as Exhibits 9 and 10.

"A claim on behalf of its indorsers was filed with the receiver of the Bank of Taylor by the defendant, copy of which is attached as Exhibit 11, the claim of Hicks Company, Ltd., being covered by the two items shown on the list attached to the claim in the respective amount of the checks.

"The form of deposit ticket in use by Bank of Taylor and used by Hicks Company, Ltd., in depositing the two checks in attached hereto as Exhibit 12.

"The Bank of Taylor forwarded a bank draft drawn on its balance at the Bankers Trust Company, Little Rock, which was not paid because of insufficient funds. The balance of the Bank of Taylor with the Bankers Trust Company on December 13, 1923, was $1,582.43.

"The defendant has made payments to the plaintiff out of proceeds it received from the Bank Commissioner in the liquidation of the assets of the Bank of Taylor, as follows:

September 3, 1925	$164.30
September 28, 1925	154.41
February 27, 1926	154.41
Total.	$473.12

"The Bank of Taylor was the only bank at Taylor, Arkansas, the nearest other bank being at Stamps, about ten miles distant from Taylor. The last published statement of the Bank of Taylor is exhibited herewith as Exhibit No. _____"

Numbers of exhibits were introduced, including circulars, letters and copies of regulations, which we do not think necessary to set out here.

W. A. Hicks testified in substance as follows:

"He is vice-president of the American Southern Trust Company of Little Rock, which is engaged in general commercial banking business. His bank does business generally all over Arkansas, and a large amount of business over the United States; does a general commercial banking

business, the collection of checks, drafts and items of that character. The capital of the bank is one million dollars, and a surplus of two hundred thousand dollars. The average deposit is about sixteen million dollars. Witness has been in the banking business in Little Rock for 15 years. Until its merger with certain other banks, this bank was the largest bank in Arkansas. I am familiar with the universal custom of Federal banks in this Federal Reserve District and in the United States in collecting checks drawn on out-of town banks. The general custom is to send the checks direct to the paying banks. It is the custom to accept drafts drawn by the drawee bank on their correspondent, which is usually located in the town in which the sending bank is located. It is not the custom to demand currency from the drawee bank for checks being collected.

CROSS-EXAMINATION

This has been the custom since I have been in the banking business. It is not generally the custom to ascertain the financial condition of the bank before sending. If it should be brought to our direct attention that the bank is in an insolvent condition we would route our items to another bank. We never make any special investigation as to the condition of a bank. We do not make any investigation as to the amount of the capital stock or the size of the bank. Every State bank is required to publish a statement, and our bank receives these statements. We receive statements from every bank in Arkansas. We make it our special business to get them, to keep in touch with the situation, and to find out whether or not the bank is getting along all right if it is doing business with us in a borrowing way. The published statement of the bank does not indicate

its condition as being solvent. A bank may be over-extended, and may be solvent and in good condition according to the published statement. It is very hard to tell from the published statement as to whether the bank should be considered as being in a shaky condition. The published statement might indicate that it is in an over-extended condition, but not that it was insolvent. If the bank showed that it had twelve and a half thousand dollars capital stock, seven and a half thousand surplus, $2,250. undivided profits, deposits of about $54,000. loans for more than $130,000, and loans and discounts and bills payable of $53,000, I would not call it in absolutely first-class condition, but I would not call it in an insolvent condition. It depends entirely upon the assets in the way of bills receivable. If the assets were worth dollar for dollar just like it stated, and absolutely good, it would not be insolvent, but if the assets were not worth that much money, which is usually the case, it would not show a very good report, but that is a thing that could be determined only by an intensive examination of its assets. In 1921 and 1922 our bank, known as the German National Bank, had deposits of $6,900.00 and we were borrowing seven and one-half million dollars, and our bills receivable were twelve million dollars. We were not insolvent, but our statement indicated that we were rather in an over-extended condition. In the year 1923 many banks in Arkansas were still in an over-extended condition. We have had less bankruptcies of banks in Arkansas than in any State surrounding us over a period of five years, but I am not saying that this over-extended condition was a very good sign. As I stated before, it depends on the value of the assets of the bank and the assets cannot be determined without an extensive

examination by one who knows the value of their paper. It is possible that their cash may be low today and collections tomorrow bring up their resources. It does not indicate entirely that the bank is insolvent, but indicates that the bank is trying to take care of its community and has gotten itself in that condition during hard times and has not yet been able to recover. When we loan money to country banks we do not require individual indorsement of directors, but we require collateral - that is, the pledging of their bills receivable - in some cases we require individual indorsement.

RE - DIRECT EXAMINATION

I examined the published statement stipulated in the agreed statement of facts in this case, and we see nothing in the statement that would keep us from sending items direct to the bank of Taylor for collection.

RE - CROSS EXAMINATION

There is nothing in the statement to indicate that we would not send items for more than $4,000. direct to the bank. The statement shows that the entire capital stock was taken up in banking house, furniture and fixtures, banking house and other real estate was $12,000, the capital stock $12,500, the surplus $7,500, the undivided profits $2,234, making approximately $10,000 margin in their capital stock, surplus and undivided profits above their furniture and fixtures, banking house and other real estate. It is reasonable to expect in analyzing a statement of this character that the banking house, furniture and fixtures are of some value. That would have to be de-

termined, of course, on a sale of the assets. In my way of analyzing this statement I would decrease that 50 per cent, banking house, furniture and fixtures, and other real estate worth approximately $6,000, which added to the surplus, capital stock and undivided profits would make a net amount of better than $6,000. We would not hesitate to send items direct to the Bank of Taylor for collection. They did owe the $53,000 and the $130,000. Not knowing the value of the paper, I cannot say whether subtracting the loan $53,000 and the $130,000 from the loans and discounts the usual amount of bad paper, whether that would leave the bank insolvent. I will say that this statement indicated that the bank was in a very extended condition, but the over-extended condition does not indicate insolvency. It might be insolvent and it might not - that depends entirely on its assets."

F. A. Coe testified in substance as follows:

"I am manager of the Little Rock Clearing House Association, which is an association of the banks of Little Rock for making settlements on Little Rock checks, and in addition we run a country department for the collection of some out-of-town checks. I have been secretary of this association since August last year. I was with the Little Rock Branch of the Federal Reserve Bank of St. Louis since January 1, 1919, until August 1, 1923. I am acquainted with the universal custom of bank handling checksdrawn on out-of-town banks for collection. I understand the universal custom to be as stated by Mr. Hicks, whose testimony I have heard.

CROSS-EXAMINATION

I was assistant cashier of the Federal Reserve Bank at this place when the items in question were sent to the Bank of Taylor, Mr. A. F. Bailey was in charge. He is not here. It is the universal custom to send checks to these country banks without making investigation of their financial condition. The Bank of Taylor is not a member of the Federal Reserve Bank or the Federal Reserve System. It was the custom of the Federal Reserve Bank to send these items to nonmember banks without making any investigation as to their financial standing.

RE-DIRECT EXAMINATION

It is also the custom of the Little Rock Clearing House Association to do the same thing. This is a commercial custom which is the outgrowth of business conditions.

The above was all the evidence introduced and the court, after hearing the evidence, found the law and facts in favor of the defendant and rendered judgment accordingly.

The plaintiff saved its exceptions, filed its motion for a new trial which was by the court overruled, prayed an appeal to the Supreme Court, which was granted.

The appellant's contention is that he has a right to sue the Federal Reserve Bank and that it is not bound by the regulations of the Federal Reserve Bank. Appellant alleges that the Federal Reserve Bank was negligent in accepting the draft of the Bank of Taylor and that because of that negligence it is liable in this case.

The Bank of Taylor, to whom the checks were sent, was the payee bank and this court had, prior to the Act of the General Assembly of 1921, held that it was negligent to send a check for collection to the payee bank. But after the passage of that act this court held that that act changed the rule and, in the decision construing the act of the Legislature, the court said that there are two conflicting lines of decisions; one originating in New York and the other in Massachusetts. Under the first rule a bank was responsible for all of the correspondent banks through whose hands the check passed for collection, unless there was an express contract to the contrary between the customer and the initial bank. And the other rule holding that the correspondent banks were agents of the customer and the initial bank is not responsible for their negligence.

The Act of the Legislature of 1921 is set out in full in the case of Farmers and Merchants Bank V. Ray 170 Ark. 293. The Court in that case said: "The evidence in this case was sufficient to warrant the jury in finding that appellant was not guilty of any negligence in the selection of its correspondents and that it was not negligent itself in forwarding the check for collection."

The case relied on chiefly by appellant is the case of Federal Reserve Bank V. Malloy, 31 A. L. R., 1261. That case not only announces the two rules, the New York rule and the Massachusetts rule, but the case annotated and many authorities are collected. Among other things it announces as one of the reasons for its decision, that the checks were delivered to a bank in Florida for collection and stated that the relation of the payee to the initial bank of deposit was controlled by

the Florida Statute with respect to which it must be presumed they dealt with each other and that this statute had the effect of importing the Massachusetts rule into the contract with the result that the initial bank had implied authority to intrust the collection of the check to a sub-agent and that the sub-agent in turn to another and the risk of any default or negligence on their part rested on the owners.

In that case it was urged that the acceptance of the drawee's draft instead of money was justified by custom. And the United States Supreme Court said, with reference to the custom:

"The business of check collecting is handled by the Federal Reserve Bank in a way very similar to that in which it is handled by collecting banks throughout the country. When one bank receives checks on another in a distant city, it usually sends them to the bank on which they are drawn, or to some other bank in that city, and receives settlement by means of an exchange draft drawn by the bank to which the checks are sent upon some one of its correspondents. When checks are sent with the expectation that the bank receiving them will remit at once, we call it sending for collection and return. When this is done, the bank upon which the checks are drawn is expected to cancel the checks and charge them to the accounts of the drawers, and to remit by means of its exchange draft, or by a shipment of currency. An exchange draft is used more frequently than a shipment of currency.

The court then said, after quoting the above evidence: "It thus appears that the custom, if otherwise established, does not fix a definite and uniform method of remittance. When checks are sent

for collection and return, the bank is expected to cancel the check and charge them to the account of the drawers, and remit "By means of its exchange draft, or by a shipment of currency, "the former being used more frequently than the latter. Whether the choice of methods is at the election of the drawee bank or the collecting bank does not appear."

The Court then stated that the custom was not known to plaintiff and all others reasons aside, by its uncertainty and lack of uniformity, it furnishes no definite standard by which the terms of the implied consent sought to be established thereby can be determined. The court continuing, said:

"It furnishes no rule by which it can be ascertained when an exchange draft shall be remitted and when currency shall be required, or who is to exercise the right of election. "A custom to pay 2 pence in lieu of tithes is good; but to pay sometimes 2 pence, and sometimes 3 pence, as the occupier of the land pleases, is bad for uncertainty. * * * * * A custom to do a thing in either one or the other of two modes, as the person relying upon it may choose, can furnish no basis for an implication that the person sought to be bound by it had in mind one mode rather than the other." Federal Reserve Bank v. Malloy, 51 A. L. R., 1261.

It will be observed that the testimony in that case showed the custom to be to send either a draft or cash. But the testimony in this case shows that it is the universal custom to send the checks direct to the payee banks and that it was the custom to accept drafts

drawn by the drawee bank on their correspondent, which is usually in the town in which the sending bank is located. It is not the custom to demand currency from the drawee bank for the checks being collected.

The above was the testimony of Mr. W. S. Hicks, Vice President of the American Southern Trust Co. and Mr. F. A. Coe testified that he was the manager of the Little Rock Clearing House Association and acquainted with the universal custom of banks handling checks drawn on out of town banks for collection, and he understood the universal custom to be as stated by Mr. Hicks, whose testimony he had heard.

The difference between the case relied on by appellant and the case at bar is, as to custom, that in the case of Federal Reserve Bank V. Malloy, the testimony showed the custom was to receive either money or drafts; one or the other. The testimony in this case shows that the custom was to receive drafts and not money, so there was no uncertainty about it.

It is contended that the appellee was negligent in sending to the payee bank and negligent in receiving a draft instead of money. But the allegation in the complaint is that it was negligent in not requiring the Bank of Taylor to pay the said checks in money, and in accepting in payment a draft drawn on the Bankers Trust Company. This is the only act of negligence alleged.

As we have already said, the statute itself authorized the appellee to send the check to the Bank of Taylor. And hence this could not be negligence and the appellant, in its complaint, alleges that the appellee received the checks, transmitted them to the Bank of Taylor, Taylor, Arkansas, and that the Bank of Taylor received the

checks, stamped them paid and charged them to the account of Dickens and Brown. And that on the same day, the said Bank of Taylor transmitted to the defendant its draft on the Bankers Trust Company of Little Rock and that the Defendant, appellee here, immediately presented said checks to the Bankers Trust Company.

According to the allegations in the complaint and the proof in the case, the appellee was not negligent, in forwarding the check for collection, nor was it guilty of any negligence in any other way. And, under the rule announced by this court since the Act of 1921, the Federal Reserve Bank, the appellee here, was not negligent. See Bank of Hunter v. Gros, Manuscript Opinion, Oct. 11, 1926; Rainwater, Bank Commissioner v. Federal Reserve Bank of St. Louis, Manuscript Opinion, January 24, 1927; The Federal Land Bank of St. Louis v. Goodman, Manuscript Opinion, April 4, 1927; Bank of Keo v. Bank of Cabot, Manuscript Opinion, May 9, 1927.

In the view that we have taken of this case, it is unnecessary to discuss the other questions mentioned in the briefs of counsel. We have reached the conclusion that the appellee was not guilty of any negligence and the case must therefore be affirmed.

McKAY and SMITH. . . . . For Appellant

James G. McConkey,
General Counsel Federal Reserve Bank, St. Louis, Missouri.

Ashley Cockrill,
Henry M. Armistead,
Little Rock, Arkansas . . . , For Appellee.

C O P Y X-4398

48

No. 260 Hennepin County Holt, J.

Transcontinental Oil Company,
Appellant

26054 vs.

Federal Reserve Bank of
Minneapolis,
Respondent.

Endorsed

Filed July 1, 1927.

Grace F. Kaercher, Clerk.

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S Y L L A B U S

Defendant received from the First National Bank of Chicago, a member bank of the Federal Reserve Bank of that city, two cashier's checks issued by a bank of South Dakota, a member bank of defendant. The checks bore the unrestricted indorsement of plaintiff, the payee. Under the arrangement existing between the Chicago banks and defendant, as expressed in Regulation J. Series, 1917, of the Federal Reserve Board and defendant's Circular No. 193, defendant accepted the collection of the checks upon the terms that it might forward the same to the payer bank with instruction to remit by draft upon a Minneapolis bank. The statute of South Dakota authorized the collecting bank, doing business in that state, to send the checks direct to the payer bank. And the court found an established general banking custom, existing in Minnesota and South Dakota, to forward items for collection direct to payer bank with instructions to remit by draft. It is held:

Defendant was not guilty of negligence in sending the checks direct to the payer bank.

Nor in instructing the payer bank to remit by draft on bank in Minneapolis.

- Affirmed. - -

O P I N I O N

Appeal from an order denying plaintiff's motion for amended findings or a new trial.

The action is one to recover damages of defendant, the Federal Reserve Bank of the Ninth Reserve District, located at Minneapolis, this state, for negligence in the collection of two cashier's checks, issued by the First National Bank of Eureka, South Dakota, both dated August 2, 1920, payable to plaintiff and transmitted to its office in Chicago, Illinois. The aggregate amount of the checks was $2,670.35. Plaintiff endorsed them by unrestricted endorsement and deposited the same on August 5, 1920, in the First National Bank of Chicago, the amount being credited to plaintiff's checking account and entered on its pass book which contained a provision that the bank in so receiving such checks acted only for plaintiff as agent to collect the same and assumed no responsibility beyond care in selecting agents at other points to whom to forward such checks. The Chicago Bank was a member bank of the Federal Reserve Bank of Chicago, and the Eureka Bank was a member bank of defendant at this time. The general supervision and control of the Federal Reserve banks is lodged in the Federal Reserve Board. (##9785 - 9805, U. S. Comp. Stat. 1916). This Board promulgated Regulation J. Series of 1917, which governed the Reserve banks in 1920, and contained these provisions: "In handling items for **** member banks a Federal Reserve Bank will act as agent only. The Board will require that each member **** bank authorize its Federal

Reserve Bank to send checks for collection to banks on which checks are drawn, and, except for negligence, such Federal Reserve Bank will assume no liability. Any further requirements that the Board may deem necessary will be set forth by the Federal Reserve Banks in their letters of instructions to their member **** banks. Each Federal Reserve Bank will also promulgate rules and regulations governing the details of its operations as a clearing house, such rules and regulations to be binding on all member **** banks which are clearing through the Federal Reserve Bank." Pursuant to authority thus given defendant issued Check Clearing and Collection Circular No. 193, which was in force during August 1920, and which had prior to that month been received by the First National Bank of Chicago, and the Federal Reserve Bank of Chicago, the here material part reading: "Checks received by the Federal Reserve Bank drawn on its member banks will be forwarded direct to such member banks and are to be remitted for by the member banks on day of receipt if possible, by their draft on the Federal Reserve Bank provided they have a balance in excess of their required reserve, or by their draft on a bank in Minneapolis or St. Paul. Member banks are required by the Federal Reserve Board to provide funds to cover at par all checks received from or for account of, their Federal Reserve Bank. In handling items for member banks, the Federal Reserve Bank of Minneapolis acts as agent only. It is understood that each member bank authorizes it to send checks for collection direct to banks on which checks are drawn, and except for negligence the Federal Reserve Bank of Minneapolis assumes no liability until funds are

actually in its hands, and is authorized to charge back any item for which it has not received final payment, including items lost in transit." Member banks of the Federal Reserve Banks send their items for clearance and collections to the Reserve Bank of which they are members; but to save time and work there existed an arrangement, in August 1920, between the First National Bank of Chicago, the Federal Reserve Bank of Chicago and the defendant whereby the former might send direct to defendant for collection items upon banks within its district, the proceeds of such items so routed being credited by defendant to the Federal Reserve Bank of Chicago, it being agreed by and between all these banks that their rights and liabilities should in all respects be the same as if items so routed had been first deposited by the First National Bank of Chicago, with the Federal Reserve Bank there and by the latter deposited for collection with defendant. The two cashier's checks were under this arrangement sent directly to defendant by the First National Bank of Chicago, and were received by defendant on August 6 and 7 respectively and immediately forwarded with other similar items, totalling $8,277.30, direct to the Eureka Bank with instructions to remit for the same by draft on a Minneapolis or St. Paul bank. On August 10 the Eureka Bank attempted to remit to defendant for said checks and the other items by drawing its draft in the sum of $8,277.30 upon the First & Security National Bank of Minneapolis, which draft was received by defendant either after banking hours on the 11th or early on the 12th of August, and on that day presented to the First & Security National Bank for payment, but payment was refused for

lack of funds to the credit of the Eureka Bank. On August 11 the Eureka Bank suspended payment and a receiver was appointed for said bank by the Comptroller of Currency. The draft has never been paid. The court found that if the checks had been presented separately over the counter to the Eureka Bank at any time between the 7 and 11 of August there would have been sufficient money on hand to pay them, but not enough to have paid all the items forwarded at the one time stated. The trial court also found the existence during August 1920 of an established, general, uniform and certain usage and custom among banking institutions in Minnesota and South Dakota in accordance with which defendant was authorized to send the checks direct to the Eureka Bank and to direct that bank to remit by its draft upon a bank in Minneapolis or St. Paul. Neither this established custom, nor the arrangements between the Chicago banks and defendant, nor the contents of Regulation J. Series 1917, nor of defendants Clearing and Collection Circular No. 193 were known to plaintiff. There was another bank at Eureka besides the one here involved. The American Railway Express Company also maintained an office at Eureka with an agent authorized to collect money on checks and drafts on banks there and remit the same for a consideration. A statute of South Dakota was in force in 1920 reading: "Any bank, banker or trust company, hereinafter called bank, organized under the laws of, or doing business in this state, receiving for collection or deposit, any check, note or other negotiable instrument drawn upon or payable at any other bank, located in another city or town whether within or without this state, may for-

ward such instrument for collection directly to the bank on which it is drawn or at which it is made payable and such method of forwarding direct to the payer, shall be deemed due diligence and the failure of such payer bank, because of its insolvency or other default, to account for the proceeds thereof, shall not render the forwarding bank liable therefor, provided however, such forwarding bank shall have used due diligence in other respects in connection with the collection of such instrument."

Because of the agreement between plaintiff and the First National Bank of Chicago, stated in plaintiff's pass book, that bank was merely the agent to select a sub-agent for the collection of the checks, so that the New York rule will not shield defendant from accountability to plaintiff. We then come to the proposition whether the facts found show actionable negligence. Plaintiff claims negligence in two respects only. First, in forwarding the checks direct to the payer bank, and second in authorizing that bank to remit by draft on a Minneapolis or St. Paul bank instead of by cash.

It is contended that the South Dakota statute has no application to the first proposition because defendant is not a bank in that state. But South Dakota is a part of the Reserve district in which by act of Congress defendant is required to and does do business. The checks in question were there drawn and payable. And it seems to us that plaintiff cannot be heard to say that handling the collection of checks so issued and payable in that state, in accordance with provisions of its statute, is negligence.

Farmer's & Merchant's Bank v. Federal Reserve Bank of Richmond 262 U. S. 649, cited by plaintiff, holds that this provision of the statute is applicable. Of course, if there were allegation and proof that defendant knew of the failing condition of the bank it might be negligence to do what the law permits, namely send the checks direct to the payer bank. But there is no claim of that sort. The claim is simply that the sole circumstance that the checks were forwarded to the payer bank establishes negligence. But aside from the statute and the established custom of banking, we think, the contract of employment of defendant absolves it from liability on the facts found both as to the sending and the authorization to remit by draft.

Defendant was employed by plaintiff's authorized agent, the First National Bank of Chicago, to collect the checks. Such agent knew that the only terms and conditions upon which defendant would accept such employement were those of Regulation J. Series 1917 and the Clearing and Collection Circular No. 193, and therefore must be held to have consented and agreed in behalf of plaintiff that not only the checks might be sent directly to the payer bank for collection, but also that such bank might remit to defendant by draft upon a bank in Minneapolis. Defendant is not compelled by law to collect checks or drafts for its member banks or for member banks of other Federal Reserve Banks. It is authorized to render such service under terms and conditions established by Federal Reserve Board and by its own regulations communicated to banking institutions who see fit to request the service. As ex-

pressed in Fergus County v. Federal Reserve Bank, 75 Mont. 582, it was settled in Farmer's & Merchants Bank v. Federal Reserve Bank of Richmond, supra, that defendant was not compelled by law to collect checks. The Montana court there applied this quotation from 6 California Jurisprudence 117: "It is a fundamental rule of law, however, that what one may refuse to do entirely he may agree to on such terms as he pleases. Hence, one person being under no legal duty to perform certain services for another, may, upon agreeing to perform such services, exempt himself from liability for his own negligence, providing *** there is no attempt to exempt himself from responsibility from any fraud or willful injury to the other person or his property, or to exempt himself from responsibility from any violation of the law either willful or negligent." We do not need to go to this extent in this case, for there is no attempt to exempt defendant from negligence. There is merely a proposition that if the collection of checks or drafts is entrusted to defendant it will be done by forwarding the same to the payer bank direct with authorization to remit by draft on a bank in Minneapolis or St. Paul. It only exempts itself from liability for the default of the payer bank. It is to be presumed that a going bank will honor its own checks and remit only with a good draft. There is no law which forbids a bank from making payment otherwise than by cash. In fact, we know that the banking business could not be conducted without extraordinary and needless expense to the public, or at all, perhaps, if in the collection and clearance of commercial paper only currency was to be used. It can therefore not be said that the conditions upon which defendant undertook the

collection of these checks as expressed in Regulation J and Circular No. 193, permit negligence or exempt therefrom, but on the contrary prescribed that the established, general and customary banking method in use in the states of Minnesota and South Dakota as found by the court should be employed. It is true, that an act done in the customary manner may, nevertheless, be found negligently done, and that custom may not overrule a settled rule of law. Minneapolis Sash & Door Co. v. Metropolitan Bank, 76 Minn. 136; Stein v. Shapiro, 145 Minn. 60. But it must also be recognized that when in the commercial and banking business there has grown up an established, general, uniform and certain usage and custom to send checks direct to a distant payer bank with authorization to remit by draft, a bank acting as a collection agent ought not to be held to have been negligent in following that general custom, especially where, as here, in consenting to act as such collection agent it was done upon the express condition that performance of the services and responsibilities therefor were to be in accordance with Regulation J and Circular No. 193. Of course, as already said, if plaintiff had alleged and proved that defendant had knowledge of some risk in pursuing the ordinary course or the course agreed upon in attempting to make the collection, proper care might have required a deviation therefrom. But nothing of that sort is charged against defendant.

Plaintiff confidently relies on Federal Reserve Bank of Richmond v. Malloy 264 U. S. 160. As we read that case it accepts the trial court's conclusion that the Reserve Board's regulation similar to Regulation J Series 1917 herein authorized defendant to

send the checks direct to the payer bank so that no negligence may be claimed on that score. This is made very clear in the decision of the trial court, Malloy v. Federal Reserve Bank of Richmond, 281 Fed. 997. As to the second point that it was negligence to authorize remittance other than in money the decision recognizes "that the obligation the law imposes to collect only in money may be varied by a regulation, clearly and positively so providing, although in terms, it relates only to the banks inter se, upon the ground that the owner of the check is bound by the knowledge and consent of his subagent." But under the regulation there involved, similar to Regulation J here, it was held that authority to pay by draft was not to be implied from the mere authority to forward the check to the payer bank direct, and that the custom there proven was equivocal, since remittance could be "by means of exchange draft or by shipment of currency." It is true, the Supreme Court in the quotation above made from the Malloy decision assumed the principle stated therein to be the law merely for that decision. Byt why should it not be good law generally? Here defendant receives in the usual course of business checks for collection from a bank. The checks bear the unrestricted endorsement of the payee. There is nothing to advise defendant of the terms contained in the pass book of the payee to the effect that the bank is merely the agent of the payee to select a subagent to make collection. Why should not defendant have the right to consider the bank the owner of the checks and hence hold it to the terms of Circular No. 193; or else consider that the bank has authority from the owner to

employ defendant to collect such checks upon such terms and conditions as defendant is willing to undertake the service, or, if you please, upon the terms and conditions imposed by the established, certain and uniform banking custom and usage in the states where the service is to be rendered? In this case the Circular No. 193 is the same as the banking custom on the proposition in question. It appeals to us that the principle of law assumed to exist by Mr. Justice Sutherland in the Malloy opinion is sound and leads to an affirmance. The First National Bank knew the terms upon which defendant would undertake the collection when the checks were forwarded to it. Defendant followed those terms to the letter. When an agent pursues the method agreed upon for the discharge of his duties as agent, the principal in all justice should not be permitted to say that the agent was negligent. The case of Hommerberg v. State Bank of Slayton, 212 N. W. 16, does not help appellant, neither an agreement nor a banking custom was found to excuse the acceptance of a worthless draft from the payer bank. On the contrary, that decision recognizes that by agreement an agent for collection of checks may limit the responsibility established rules of law place upon him. And the authorities seem to agree that such rules may be limited or varied by agreement. Semingson v. Stockyards Nat. Bank, 162 Minn. 424; Farmer's State Bank v. Union Nat. Bank, 42 N. Dak. 449; Closter Nat. Bank v. Federal Reserve Bank, 285 Fed. 138, (certiorari denied 261 U. S. 613). An agreement that the collection of commercial paper may be made in a certain manner must be held to be as effective a shield to the charge of negligence as an instruction how to pro-

ceed. The latter freed from the charge of negligence a bank which received a check from a sub-agent bank with instruction to send the same for collection direct to the payer bank. First Nat. Bank of Chicago v. Citizens Savings Bank of Detroit, 123 Mich. 336, and the same check involved in First Nat. Bank of Chicago v. Bank of Whittier, 221 Ill. 319. If the established rule that it is negligence to send an item to the payer bank direct, may be abrogated by directions or instructions to the forwarding bank, it should follow that likewise may the rule that the remittance must be in currency.

The rules of law invoked in this case seem to be slipping away from the established custom and usage of present day banking, Spokane Valley State Bank v. Lutes 133 Wash. 66. So we find that the legislatures of different states have seen fit by statute to effect a change. By Chapter 138 L. 1927, both rules were rendered ineffective to establish negligence in this state.

Other grounds are urged by respondent for an affirmance which we need not consider in view of the conclusion stated. Such grounds among others are: no damages resulted, since the Eureka Bank was not in condition to remit for all the items forwarded at the same time that plaintiff's were, and since the only one liable on the checks is now liable on the draft nothing was lost to plaintiff by the substitution of the latter for the former. It is also claimed by respondent that the Eureka Bank became a collecting bank for plaintiff when it received the checks and issued the draft; that

plaintiff stands in the shoes of one or the other of the Chicago banks; that plaintiff's unrestricted endorsement gave defendant the right to consider the First National Bank of Chicago the owner of the checks; and that the remittance draft sent by the Eureka Bank was never accepted by defendant and was not one which it authorized to be sent. We think the findings of fact as to the agreement under which defendant accepted the collection of these checks as well as the established general banking custom in the states of Minnesota and South Dakota are sustained by the evidence, and these findings justify the conclusion that no negligence was proven without aid of the other grounds advances by respondent.

The order is affirmed.

TREASURY DEPARTMENT
Office of the Secretary
WASHINGTON

July 8, 1927.

The Governor,
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period June 25, 1927, to June 30, 1927, amounting to $24,558.60, as follows:

Federal Reserve Notes, Series 1914

	$5	$10	$20	Total
Boston	31,000			31,000
New York	48,000	78,000		126,000
Philadelphia		39,000		39,000
Cleveland		50,000	25,000	75,000
Atlanta	63,000	118,000		181,000
Chicago	2,000		6,000	8,000
Minneapolis	77,000			77,000
Kansas City	46,000			46,000
Dallas	77,000			77,000
San Francisco		11,000		11,000
	344,000	296,000	31,000	671,000

671,000 sheets @ $36.60 per M $24,558.60

The charges against the several Federal Reserve Banks are as follows:

Boston	$ 1,134.60
New York	4,611.60
Philadelphia	1,427.40
Cleveland	2,745.00
Atlanta	6,624.60
Chicago	292.80
Minneapolis	2,818.20
Kansas City	1,683.60
Dallas	2,818.20
San Francisco	402.60
	$24,558.60

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,
S. R. Jacobs,
Acting Commissioner.

FEDERAL RESERVE BOARD

WASHINGTON X-4902

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 18, 1927.

SUBJECT: Holiday, Denver Branch,
August 1, 1927.

Dear Sir:

The Denver Branch of the Federal Reserve Bank of Kansas City will be closed on Monday, August 1st, in observance of Colorado Day, and will not participate in either the regular Gold Fund Clearing or the Federal Reserve Note Clearing of that date.

Please include your credits of August 1st for the Denver Branch, with those of the following business day, in the Gold Fund Clearing.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL FEDERAL RESERVE BANKS.

FEDERAL RESERVE BOARD

X-4903

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 18, 1927.

SUBJECT: Reduction in Insurance Rates.

Dear Sir:

For your information there is enclosed herewith a copy of a letter received from the Treasury Department advising that the insurance rates covering shipments of currency, etc., by registered mail under insurance policies held by the Treasury Department have been reduced effective July 1, 1927. The net rate per $1,000 on general shipments is now 4-1/5¢ and the net rate per $1,000 on rotary locked pouch shipments is 2-2/5¢.

It will also be noted that Marsh & McLennon, in submitting monthly statements, will indicate thereon the amount to be paid to each of the underwriting companies.

Very truly yours,

J. C. Noell,
Assistant Secretary.

(Enclosures)

TO GOVERNORS OF ALL F. R. BANKS.

X-4905 64

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 21, 1927.

SUBJECT: Expense, Main Line, Leased Wire System, June, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X-4905-a and X-4905-b, covering in detail operations of the main line, Leased Wire System, during the month of June, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

Enclosures.

TO GOVERNORS OF ALL F. R. BANKS EXCEPT CHICAGO.

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF JUNE, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F. R. Banks(1)	Total	Treasury Department Business	War Finance Corporation Business	Net Federal Reserve Bank Business	Per cent of total bank Business(*)
Boston	38,511	2,370	40,881	6,903	-	33,978	3.93
New York	156,153	-	156,153	14,463	54	141,636	16.37
Philadelphia	46,059	2,202	48,261	6,637	-	41,624	4.81
Cleveland	82,423	3,317	85,740	7,871	-	77,869	9.00
Richmond	46,677	4,093	50,770	7,199	-	43,571	5.04
Atlanta	63,509	5,851	69,360	10,199	-	59,161	6.84
Chicago	113,995	3,998	117,993	10,881	-	107,112	12.38
St. Louis	82,703	3,958	86,661	8,040	-	78,621	9.09
Minneapolis	36,366	3,905	40,271	4,962	28	35,281	4.08
Kansas City	79,953	4,061	84,014	8,113	-	75,901	8.77
Dallas	63,245	6,777	70,022	5,711	-	64,311	7.44
San Francisco	113,184	4,404	117,588	11,633	-	105,955	12.25
Total	922,778	44,936	967,714	102,612	82	865,020	100.00
F. R. Board			419,557	140,974	-	278,583	
Total			1,387,271	243,586	82	1,143,603	
Per cent of total			100.00%	17.56%	.01%	82.43%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-4905-b).

(1) Number of words sent by New York to other F. R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

X-4305-D

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, JUNE, 1927

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$ 260.00	-	-	$ 260.00	$ 750.28	$ 260.00	$ 490.28
New York	1,020.14	-	-	1,020.14	3,125.22	1,020.14	2,105.08
Philadelphia	225.00	-	-	225.00	918.28	225.00	693.28
Cleveland	296.66	-	-	296.66	1,718.20	296.66	1,421.54
Richmond	190.00	-	-	190.00	962.19	190.00	976.86(&)
Atlanta	270.00	-	-	270.00	1,305.84	270.00	1,035.84
Chicago	4,036.59(#)	1.00	-	4,037.59	2,363.48	4,037.59	1,674.11(*)
St. Louis	337.00	-	-	337.00	1,735.39	337.00	1,398.39
Minneapolis	265.83	-	-	265.83	778.92	265.83	513.09
Kansas City	275.64	-	-	275.64	1,674.29	275.64	1,398.65
Dallas	251.00	.75	-	251.75	1,420.38	251.75	1,168.63
San Francisco	370.00	-	-	370.00	2,338.67	370.00	1,968.67
Federal Reserve Board	-	-	$15,359.83	15,359.83	-	-	-
Total	$7,797.86	$1.75	$15,359.83	$23,159.44 4,066.30(a) $19,091.14	$19,091.14	$7,799.61	$13,170.31 1,674.11(b) $11,496.20

(&) Includes $204.67 for branch line business over main line circuit.
(#) Includes salaries of Washington operators.
(*) Credit
(a) Received $4,066.48 from Treasury Department and $1.82 from War Finance Corporation covering business for the month of June, 1927.
(b) Amount reimbursable to Chicago.

X-4908

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release. July 21, 1927.

CONDITION OF THE ACCEPTANCE MARKET
June 16, 1927 to July 13, 1927

The supply of bills in the acceptance market during the period from June 16 to July 13 showed a slight seasonal decline and dealers' purchases were smaller than in recent months. Cotton exports and silk, coffee, and sugar imports formed the basis of the majority of the bills bought. The demand was affected by firmer money conditions toward the end of the half year, and rates on 90 day bills were advanced by most dealers on the 20th of June. Early in July, however, large purchases of acceptances were again made in New York for foreign account and this increase in demand resulted in a reduction of 90 day bill rates to their former level. New York dealers reported smaller portfolios on July 13 than at any time since last September. Dealers in other cities, however, reported a slack demand throughout the period for any but short bills. The following table shows the market rates on bills of various maturities as they stood both at the beginning and at the end of the period:

Acceptance rates in the New York market

Maturity	Bid	Asked
30 days	3 5/8	3 1/2
60 "	3 3/4	3 5/8
90 "	3 3/4	3 5/8
120 "	3 7/8	3 3/4
180 "	4	3 7/8

X-4909

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For release in Morning Papers,
Thursday, July 28, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of June and July, as contained in the forthcoming issue of the Federal Reserve Bulletin.

The output of industry declined substantially in June to a level close to that of a year ago, reflecting reduced activity both in mines and in factories. The value of building contracts awarded was the largest for any month on record. The general level of prices remained practically unchanged.

Production.- Production of iron and steel and automobiles declined considerably in June and curtailment in these industries continued during the early part of July. There were also decreases in June in silk deliveries, sugar refining, and production of lumber, copper and anthracite coal. Cotton and woolen mills continued active for this season of the year, and consumption of raw cotton was larger than in any previous June on record. Meat packing, shoe production, and the manufacture of building materials showed increases. Production of manufactures, as a group, was slightly larger in June than in the same month of 1926, but output of minerals, owing largely to decreased production of coal, was in smaller volume than a year ago. The value of building contracts awarded in June was larger than in any previous month on record, owing chiefly to the steady increase within recent months of contracts for public works and public utilities. Awards were particularly large, as compared with previous months of this year and with June of last year,

in the New York and Chicago Federal reserve districts. Contracts were awarded during the first half of July in practically the same volume as in the corresponding period of last year.

On the basis of conditions on July 1 forecasts of the Department of Agriculture indicate increases as compared with the 1926 harvested production in the output of wheat, oats, barley, rye, hay and potatoes, and decreases in corn, tobacco, and the principal fruit crops. Cotton for which no production estimate was given, shows a decrease of 12 per cent in acreage planted, while the total area planted to all crops shows a reduction of 2 per cent. A reduction of 371,000,000 bushels in the estimated production of corn, compared with 1926, indicates the smallest crop since 1901.

Trade. - Wholesale trads in most leading lines increased slightly between May and June, while retail trade showed less than the customary seasonal decline. Sales of department stores were in about the same volume as a year ago while those of mail order houses and chain stores were larger. Sales of meat, dry goods, and hardware at wholesale were smaller than in June of last year, while sales of groceries, shoes, and drugs were about the same in volume. Inventories of department stores declined further to a level about 3 per cent below that of June, 1926. Stocks carried by wholesale firms showed no change for the month and were smaller than a year ago.

Daily-average freight-car loadings failed to show the customary seasonal increase between May and June and were in smaller volume from early in May to the middle of July than during the corresponding period of last year. Shipments of almost all groups of commodities have been

smaller than a year ago. The largest declines occurred in the shipments of coal and coke.

Prices. - The general level of wholesale commodity prices, according to the Bureau of Labor Statistics index, continued practically the same in June as in the two preceding months. The prices of agricultural commodities as a group declined slightly while the average for the non-agricultural group remained practically unchanged. There were declines between May and June in the prices of silk, iron and steel, nonferrous metals, building materials and rubber and advances in grains, cotton, hides and skins, and anthracite coal. During the first three weeks of July prices of wheat, bituminous coal, iron and steel, and rubber declined while those of livestock, cotton, wool, copper, and hides advanced.

Bank credit. - The demand for member bank credit decreased from the latter part of June to the middle of July and on July 20th the loans and investments of member banks in leading cities were more than $200,000,000 lower than a month before. The decline was principally in the banks' investment holdings and in loans secured by stocks and bonds. Loans for commercial, agricultural, and industrial purposes decreased by about $45,000,000.

Demand for reserve bank credit in connection with settlements at the end of the fiscal year and increased currency requirements over the holiday period carried total discounts for member banks on July 6 to the highest level since the first of the year. Thereafter, largely in consequence of the return flow of currency from circulation, there was

a decreased demand for member bank accommodation and on July 20 total discounts were in somewhat smaller volume than four weeks earlier. Holdings of United States securities showed a slight increase during July.

Conditions in the money market, after seasonal firmness at the end of June were easier in July.

(REVISED DRAFT)

REGULATION K, SERIES OF 1927

COLLECTION OF MATURING NOTES AND BILLS

SECTION I. STATUTORY PROVISIONS.

Section 13 of the Federal Reserve Act authorizes Federal reserve banks to receive from their member banks and non-member clearing banks, for collection, maturing notes and bills and to receive from other Federal reserve banks for collection maturing notes and bills payable within the district of the Federal reserve bank receiving such items. The authority to receive such items for collection includes the authority to take such steps and perform such acts as may be necessary to effect collection, and to exercise such other powers as are reasonably incidental to the collection of such items.

SECTION II. DEFINITIONS.

(a) Maturing Notes and Bills. The term "maturing notes and bills" is, for the purposes of this regulation, hereby defined to include the following classes of items payable within the continental United States:

1. Maturing notes, drafts, bills of exchange, acceptances, bankers' acceptances, and certificates of deposit;

2. Drafts on savings accounts with pass-books attached;

3. Checks, drafts and other cash items which have previously been dishonored or on which special advice of payment or dishonor is required;

4. Maturing bonds and coupons; and

5. All other evidence of indebtedness except checks and bank drafts which cannot be collected at par in funds acceptable to the collecting Federal reserve bank; provided that any Federal reserve bank may require any depositing member bank to show to such Federal reserve bank's satisfaction that special conditions exist which make it proper for said Federal reserve bank to handle as collection items of the character normally collected by the Federal reserve bank as cash items.

(b) NON-MEMBER CLEARING BANK. The term "non-member clearing bank" is defined to mean a non-member bank or trust company which maintains with the Federal reserve bank of the district in which it is located a balance sufficient to qualify it under Section 13 of the Federal Reserve Act to send cash items to the Federal reserve bank for purposes of exchange or collection under Regulation J.

(c) CASH ITEMS. The term "cash items" is defined to mean checks, drafts, and other items which are collectible pursuant to the terms of Regulation J.

(d) COLLECTION ITEMS. The term "collection items" is defined to mean maturing notes and bills which are collectible pursuant to the terms of Regulation K.

SECTION III. GENERAL REQUIREMENTS.

The Federal Reserve Board, desiring to afford to the public and to the various banks of the country a direct, expeditious, and economical system for the collection of maturing notes and bills, has arranged to have all Federal reserve banks collect maturing notes and bills on a uniform basis and on the terms and conditions hereinafter prescribed.

SECTION IV. ITEMS RECEIVED FOR COLLECTION.

(a) Each Federal reserve bank will receive from its member banks and from non-member clearing banks in its district for collection maturing notes and bills payable in the continental United States.

(b) Each Federal reserve bank will receive from other Federal reserve banks for collection maturing notes and bills payable within its own district.

(c) In order to eliminate unnecessary delay and expense and further to increase the efficiency of the collection service herein provided, each Federal reserve bank will authotize all member banks and non-member clearing

banks in its district to send maturing notes and bills for its account direct to the Federal reserve bank of the district in which such items are payable; and each Federal reserve bank will receive from member banks and non-member clearing banks in other districts maturing notes and bills payable within its own district, for collection and credit to the account of the Federal reserve bank of the district in which the sending bank is located.

(d) No Federal reserve bank shall receive for collection any check or bank draft drawn on or payable by a non-member bank which cannot be collected at par in funds acceptable to the Federal reserve bank of the district in which such non-member bank is located, or any item payable outside of the continental United States.

SECTION V. TERMS OF COLLECTION.

The Federal Reserve Board hereby authorizes the Federal reserve banks to handle such maturing notes and bills subject to the following terms and conditions; and each member bank and non-member clearing bank which sends maturing notes and bills to any Federal reserve bank for collection shall by such action be deemed: (a) to have agreed to all the terms and conditions of this regulation; (b) to have warranted to the Federal reserve banks that it has authority to empower the Federal reserve banks to handle such items in the manner hereinafter provided; (c) to have agreed to indemnify any Federal reserve bank for any loss resulting from the failure of such sending bank to have such authority; and (d) to have guaranteed all prior endorsements on such items whether or not a specific guaranty is incorporated in the endorsement of the sending bank.

1. Federal reserve banks will act only as the collecting agents of the sending banks and will be responsible only for due diligence and care in forwarding or presenting such items and for its guaranty of prior endorsements.

2. Federal reserve banks may present or forward such items direct to the banks on which they are drawn, at which they are payable, or through which they are collectible, for payment in cash, bank draft, or solvent credits; or present them direct to the person, firm or corporation on which they are drawn, for payment in cash or check; or, if the item is not payable in a city in which there is a Federal reserve bank or a branch of a Federal reserve bank, then they may, in their discretion, forward them to another agent with the same authority that they have to present or forward them for payment.

3. Items payable in another district will be forwarded for collection to the Federal reserve bank of such district or to a branch of such Federal reserve bank; except that items with a definite maturity, payable in another district, may be forwarded direct to the place of payment in such other district when it is necessary to do so in order to reach the place of payment by maturity, and sight or demand drafts with documents attached, payable in another district, may be forwarded direct to the place of payment when the collecting Federal reserve bank is specifically requested to do so. All such items will be handled on the terms and conditions herein prescribed.

4. Except as herein provided, Federal reserve banks shall be held liable only when they have received actual payment in cash or in the final proceeds of any bank draft or check received in remittance.

SECTION VI. CREDIT FOR PROCEEDS.

No Federal reserve bank shall credit the reserve account of any

member bank or the account of any non-member clearing bank or any other Federal reserve bank with the amount of any maturing note or bill until payment in actually and finally collected funds has been received by the collecting Federal reserve bank.

SECTION VII. CHARGES FOR COLLECTION.

(a) CHARGES BY FEDERAL RESERVE BANKS. No charge shall be made by any Federal reserve bank for the service performed by it in the collection of maturing notes and bills, except that:

1. Any charge made by another collecting agent shall be charged to the bank from which such items were received or shall be deducted and credit given for the actual net proceeds;
2. The actual expense of registration, insurance, or transportation of maturing notes and bills forwarded to other points for collection may be charged to the bank from which such items were received or may be deducted and credit given for the actual net proceeds;
3. All telegraph and telephone charges in connection with the collection of maturing notes and bills may be charged to the bank from which such items were received; and
4. A service charge of fifteen cents per item on all maturing notes and bills returned unpaid and unprotested shall be charged to the bank from which such items were received for collection. This charge shall not be made on items that are protested.

(b) CHARGES BY COLLECTING AGENTS. Any member bank or non-member bank selected by a Federal reserve bank as an agent to collect maturing notes and bills received under the terms of this regulation, may make a reasonable charge for its service in handling such maturing notes and bills; except that no such charge shall be made for handling checks and bank drafts.

SECTION VIII. OTHER RULES AND REGULATIONS.

All Federal reserve banks shall also promulgate rules and regulations identical in terms, not inconsistent with the provisions of the law or of this regulation, governing the details of the collection of maturing notes and bills by such Federal reserve banks . Such rules and regulations shall be binding upon any member or non-member clearing bank which sends maturing notes and bills to its Federal reserve bank or any other Federal reserve bank for account of its Federal reserve bank.

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FEDERAL RESERVE BOARD

WASHINGTON

X-4912

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 28, 1927.

CONFIDENTIAL

SUBJECT: Code word to be used by Federal Reserve Bank of New York in advices re Investments in Sterling Bills.

Dear Sir:

In order to reduce the length of telegrams between the Federal Reserve Bank of New York and other Federal reserve banks in connection with participation in the Bank of England account, it has been suggested that an additional code word be supplied from the Federal Reserve Telegraph Code.

The Board has approved this suggestion, and effective at once, the following code word will be used between the Federal Reserve Bank of New York and other Federal reserve banks in connection with these transactions:

> KLICKED: Please make following entries for investment in Sterling bills made for our account by the Bank of England: Debit "Investments through foreign banks" $_____with corresponding credit to "Due from foreign banks-Bank of England". In addition to daily accrual our telegram _____ we credit you through settlement today $_____ your share earnings up to and including today. We will credit you tomorrow and daily until further notice $_____ your share of daily accrual.

This code word should be inserted in the Federal Reserve Telegraph Code following the supplemental code word "KLICK" at the bottom of page 131.

There are enclosed herewith a sufficient number of extra copies of this letter to enable you to insert this code word in all of the code books in the possession of your bank.

Very truly yours,

J. C. Noell,
Assistant Secretary.

To Governors of all F. R. Banks.

X-4913

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS

For immediate release. July 28, 1927.
4:00 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Kansas City for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective July 29, 1927.

(C O P Y) X-4915

CONFIDENTIAL Date: August 3, 1927. 80

Subject: Revision of Board's Regulations.

To The Law Committee

From Mr. Wyatt - General Counsel.

After careful consideration of the comments and suggestions submitted by the Governors and Chairmen of the Federal reserve banks pursuant to the Board's letter of June 21, 1927 (X-4878), I respectfully recommend that the revised draft of the regulations which was approved tentatively by the Board on June 21, 1927, be finally approved and promulgated at the earliest possible date with the changes recommended below.

REGULATION A.

Section IV(b) - Financial Statements.

I respectfully recommend that subdivision 2 of this subsection (i.e., next to the last paragraph on page 3) be restored to the form in which it appeared in the 1924 regulations.

In the draft tentatively approved by the Board on June 21st, it was proposed to change this paragraph so as to require financial statements in all cases where the aggregate obligations of the borrower discounted and offered for rediscount at a Federal reserve bank by a particular member bank amounts to $1,000 or more. Several of the Federal reserve banks object seriously to this change and argue that it would cause unnecessary and unjustifiable inconvenience to them and to their member banks, while other Federal reserve banks favor the change. The regulations of 1924 expressly provide that, "A Federal reserve bank may, in all cases, require the financial statement of the borrower to be filed with it." Under this provision of the old regulations, those Federal reserve banks which desire financial statements with reference to all borrowings amounting to $500 or $1000 have a perfect right to require such statements, and it would seem unnecessary for the Board to compel the other

Federal reserve banks to require financial statements under such circumstances when they consider it unnecessary and impracticable to do so.

The replies to the Board's letter of June 21, 1927, contain no serious objections to the other proposed changes in Regulation A, except that the Federal Reserve Banks of Richmond and Dallas object to paragraphs (c) and (d) of the proposed new Section IX regarding the rediscount of paper acquired from non-member banks. The Federal Reserve Bank of Richmond objects to paragraph (c) on the ground that it "will further add to the many services which we perform, directly or indirectly for non-member banks, which have the effect of keeping them out of the System and can only do harm and not good"; while the Federal Reserve Bank of Dallas expresses the opinion that it is not essential and detracts from the dignity of the regulations. Both object to paragraph (d) on the ground that the Federal Reserve Act expressly authorizes Federal reserve banks to rediscount eligible paper for Federal Intermediate Credit Banks. However, it does not authorize them to rediscount for member banks paper bearing the signature or endorsement of Federal Intermediate Credit Banks, which are technically non-member banks. (See ruling on page 253 of the 1926 Bulletin). Both paragraphs (c) and (d) could be omitted if the Board so desires.

REGULATION B.

It is not proposed to make any changes in this regulation.

REGULATION C.

It is not proposed to make any changes in this regulation.

REGULATION D.

Section II(d) - Definition of Savings Accounts.

I respectfully recommend that this section be restored to the form

in which it appeared in the Regulations of 1924.

My reasons for this recommendation may be summarized briefly as follows:

(1) The suggested changes are not necessary, since a strict enforcement of the old regulation would enable the Board to check, if not end altogether, the existing tendency to evade the reserve requirements through the device of classifying as "savings accounts" deposits which are subject to check or for any other reason are not bona fide savings deposits.

(2) By ruling on each question as it arises, the Board can build up gradually a series of administrative rulings which would accomplish the purpose of the proposed changes without the shock to the member banks which might result from drastic changes in the regulations without previous notice to the member banks and an opportunity to be heard.

(3) Such a method of correcting the existing abuses would give the Board the advantage of such further information on this general subject as might be obtained as a result of the study being made by the Federal reserve banks, the Federal Reserve Agents and the Federal Advisory Council pursuant to the Board's circular letter of June 24, 1927 (X-4888).

(4) Such a gradual and orderly method of correcting the existing abuses would be obviously fair and less likely to prejudice the Board's case in the courts, if the Board's rulings should be tested there.

(5) In any test suit which might arise out of a specific ruling in an individual case the complainant would naturally be a bank which was attempting to evade the requirements of the law and this would give the Board a distinct tactical advantage.

(6) The existing definition of "savings accounts" has been in force

for over twelve years and would stand a much better chance of being upheld by the courts than a new definition recently adopted. An interpretation of the law by an administrative officer or body of the Government which has long been in force and has been generally accepted by the public will be upheld by the courts unless it is clearly erroneous.

(7) The enforcement of a regulation or ruling classifying as demand deposits the so-called "special savings accounts" prevalent in California would so seriously affect the earnings of several of the larger California banks that it would be only fair to notify them and give them an opportunity to be heard before adopting such a regulation or ruling.

(8) Moreover, such banks would be almost certain to test the legality of such a ruling or regulation in the courts; and it is exceedingly important for the Board to be in the best possible tactical position when it undertakes to enforce such a regulation or ruling.

The proposed substitute definition of "savings accounts" prepared at the direction of the Board and transmitted to the Federal reserve banks in the Board's letter of June 21, 1927, contemplated such drastic change and is of such doubtful legality that it is strongly objected to by most of the Federal reserve banks. Upon further reflection and study, I am of the opinion that the proposed restrictions on the character of the depositors and the size of the deposits would exceed the Board's lawful powers and could not be sustained in the courts.

Section II(e) - Definition of Time Certificates of Deposits.

I respectfully recommend that this section be restored to the form in which it appeared in the Regulations of 1924.

The reasons for this recommendationare the same as those given

for the recommendation regarding the definition of "savings accounts".

Section III(a)- Paragraph Regarding Trust Funds.

In order to make the language of this section conform more nearly to that of other portions of the regulation, I respectfully recommend that the word "carry" be changed to "maintain" and that the word "carried" be changed to "maintained".

Section IV-Penalties for Deficiencies in Reserves.

I respectfully recommend that this section be changed to read as follows:

"SECTION IV. PENALTIES FOR DEFICIENCIES IN RESERVES

"Inasmuch as it is essential that the law with respect to the maintenance by member banks of the required minimum reserve balances be strictly complied with, the Federal Reserve Board, under authority vested in it by Section 19 of the Federal Reserve Act, hereby prescribes the following rules governing penalties for deficiencies in reserves.

"(a) Banks in cities where Federal reserve banks or branches thereof are located.

"1. Deficiencies in reserve balances of member banks in cities where Federal reserve banks or branches thereof are located will be computed on the basis of average daily net deposit balances covering semi-weekly periods. Such computations shall be made as at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the semi-weekly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank in a city where a Federal reserve bank or branch thereof is located has an average deficiency in reserves for twelve consecutive semi-weekly periods, there shall be

assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for eight consecutive semi-weekly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective, and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(b) Banks in reserve cities where there are no Federal reserve banks or branches.

"1. Deficiencies in reserve balances of member banks in reserve cities where there are no Federal reserve banks or branches thereof will be computed on the basis of average daily net deposit balances covering weekly periods. Such computations shall be made as at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the weekly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper, in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank in a reserve city where there is no Federal reserve bank or branch thereof has an average deficiency in reserves for six consecutive weekly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for four consecutive weekly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective, and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(c) All other member banks.

"1. Deficiencies in reserve balances of other member banks will be computed on the basis of average daily net deposit balances covering semi-monthly periods. Such computations shall be made as

at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the semi-monthly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper, in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank of this class has an average deficiency in reserve for three consecutive semi-monthly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-monthly reserve deficiencies occurring thereafter, until such member bank has maintained the required average reserve for two consecutive semi-monthly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(d) Waiver of Penalty.

"The Federal Reserve Board reserves the right to waive the progressive penalty herein prescribed in any specific case when in its discretion it considers it advisable to do so, upon the recommendation of the Federal reserve bank of the district in which the particular member bank affected is located.

"(e) Continued Deficiencies.

"Whenever any member bank is subject to the maximum penalty of 10 per cent, the Federal Reserve Agent shall promptly report the fact to the Federal Reserve Board with a recommendation as to whether or not the Board should:

"1. In the case of a National bank, direct the Comptroller of the Currency to bring suit to forfeit the charter of such National bank pursuant to Section 2 of the Federal Reserve Act; or

"2. In the case of a State member bank, institute proceedings to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership pursuant to Section 9 of the Federal Reserve Act; or

"3. In either case, take such other action as the Federal Reserve Agent may recommend or the Federal Reserve Board may consider advisable.

I recommend this, because it is substantially the draft agreed upon informally at a conference following the meeting of the Open Market Committee on July 27th, at which five members of the Federal Reserve Board and representatives of some seven or eight Federal reserve banks were present, and because it is believed to be a compromise which will correct the abuses which the Board has in mind and at the same time meet with the least opposition on the part of the Federal reserve banks and the member banks.

On this subject, the varying opinions and shades of opinion are almost as numerous as the Federal reserve banks. Some favor the provisions contained in the tentative draft of the regulations with varying modifications; some favor the alternative draft enclosed in the Board's letter of June 21st, with varying modifications; and some favor a draft along the general lines of that quoted above. No two agree on all details.

If I may be permitted to record my own personal views, I will say that I prefer the draft contained in the tentative draft of the regulations submitted with my memorandum of June 16, 1927; because I believe it is entirely workable and is most nearly in accordance with the intent of the law.

In view of the broad power and discretion vested in the Board in the matter of prescribing regulations and penalties regarding deficiencies in reserves, however, I am of the opinion that it is entirely within the Board's lawful power to adopt any one of the three alternative drafts of this section now before the Board or to leave this section of the regulations in the form contained in the edition of 1924. The question involved is really a question of policy, and the ultimate responsibility rests with the Federal Reserve Board.

Mr. Smead has suggested the insertion of the following new sub-section immediately after subsection (d) of the above draft of Section IV:

> "(e) Notice to Directors of Banks Subject to Progressive Penalty.
>
> "As soon as any bank has been continuously deficient in its reserves for a sufficient length of time to subject it to the progressive penalty, the Federal Reserve Agent shall address a letter to each director of such bank calling attention to the situation and advising him of the requirements of the law and of this regulation regarding the maintenance of reserves and the personal liability of the directors permitting violations of the law".

I believe that this provision not only would accomplish much in the matter of correcting continuous deficiencies in reserves, but also would be helpful in preventing the insolvency of banks by giving the directors timely notice of the development of bad situations. I did not incorporate it in the above draft of Section IV, because it is an entirely new suggestion and had not been submitted to the Federal reserve banks. Governor Crissinger, however, has telegraphed all Federal Reserve Agents for their views on this suggestion; and I recommend that it be inserted in the Regulation, unless the Federal Reserve Agents raise valid objections to it.

If the above quoted sub-section is inserted in Section IV, sub-section (e) of the above draft should be redesignated as sub-section (f).

Section V-Loans and Dividends While Reserves are Deficient.

I respectfully recommend that the last sentence of this section as contained in the Regulations of 1924 be restored, with appropriate changes in phraseology, unless the draft of Section IV contained in the tentative draft of the regulations submitted with my memorandum of June 16th is adopted.

The elimination of this sentence was originally suggested in order to harmonize this section with the proposal to assess penalties for deficiencies

in reserves of all member banks on an actual daily basis instead of an average weekly or semi-monthly basis; and it should be restored unless that proposal is adopted.

I also recommend that the new language proposed to be added at the end of this section be retained.

REGULATION E.

It is not proposed to make any changes in this regulation.

REGULATION F.

Section VIII - Funds Awaiting Investment or Distribution.

In order to correct certain clerical errors, I recommend that the following changes be made in this section:

(1) Transfer the footnote appearing at the bottom of page 26-a to the bottom of page 26;

(2) Transfer the reference to said footnote from the end of subsection (c) to the end of subsection (b);

(3) In the eighth line of subsection (c), change the reference from "Subsection (a)" to "Subsection (b)".

These are the only changes which I recommend in the entire regulation.

I desire to call attention to the fact, however, that the Federal Reserve Banks of Boston, Philadelphia, and Cleveland object to subsection (c) of Section VIII, which would require banks depositing trust funds in other banks to obtain from such other banks a deposit of securities to protect the trust estates.

Mr. Carrick of the Federal Reserve Bank of Boston calls attention to the fact that it would impose upon national banks a condition which does not

apply to trust companies, other corporate fiduciaries, or to personal fiduciaries.

The Federal Reserve Bank of Philadelphia objects very strongly to this provision, on the ground that it would be burdensome to national banks in Pennsylvania to comply with this provision, in view of the fact that the rules prescribed by the Commissioner of Banking in that State require all uninvested trust funds to be deposited with other banks, and Pennsylvania trust companies are not required to obtain a deposit of securities to protect the trust estates. The Federal Reserve Bank of Philadelphia feels so strongly about this that it has requested a hearing before the Board or the Law Committee before this provision of the regulations is adopted. I respectfully recommend that the hearing be granted, but, that this section of the regulation be adopted.

The Federal Reserve Bank of Cleveland objects to subsection (c), on the ground that, notwithstanding the rules of the Commissioner of Banking of the State of Pennsylvania, national banks should not be permitted to deposit uninvested trust funds in other banks but should be required to comply strictly with the provisions of Section 11(k), which, in the opinion of the Federal Reserve Bank of Cleveland, affords greater protection to the trust estate than the proposed subsection (c) or the rules promulgated by the State Banking Department.

REGULATION G.

I have heretofore recommended, and the Board has tentatively approved, the complete elimination of old Regulation G dealing with loans by national banks on farm land and other real estate; since this is a matter within the jurisdiction of the Comptroller of the Currency.

I now recommend that old Regulation K governing Edge corporations be redesignated as Regulation G and inserted at this place, and that the designation and location of old Regulation M be permitted to remain unchanged.

REGULATION H.

Section I - Banks Eligible for Membership.

In order to avoid confusion, I respectfully recommend that the numbering of the first two paragraphs of this section be restored to the form existing in the 1924 Regulations.

Section IV - Conditions of Membership.

I respectfully recommend that this section be changed to read as follows:

"SECTION IV. CONDITIONS OF MEMBERSHIP

"Pursuant to the authority contained in the first paragraph of Section 9 of the Federal Reserve Act, which provides that the Federal Reserve Board may permit applying banks to become members of the Federal Reserve System 'subject to the provisions of this Act and to such conditions of membership as it may prescribe pursuant thereto', the Federal Reserve Board will prescribe for each bank or trust company hereafter applying for admission to the Federal Reserve System such conditions of membership pursuant to the provisions of the Federal Reserve Act as the Board may consider necessary or advisable in the particular case, and such bank or trust company will be required to agree to such conditions of membership prior to its admission to the Federal Reserve System."

This follows substantially the form of the corresponding paragraph of every edition of the Board's regulations on this subject prior to the edition of 1924 and gives the Board exactly the same power with respect to prescribing conditions of membership as it has under the corresponding provision of the Regulations of 1924, except to the extent that such power has been restricted by the amendments contained in the McFadden Act.

The incorporation in the Regulations of 1924 of the text of the conditions of membership most usually prescribed was greatly misunderstood and resulted in much criticism on the part of the National Association of Supervisors of State Banks, which criticism in turn led to the restriction of the Board's

power by the amendments contained in the McFadden Act. The continued appearance of these conditions of membership in the Board's regulations was again the subject of criticism during the meeting of the National Association of Supervisors of State Banks recently held in Richmond; and I am convinced that it would be highly desirable for the Board to eliminate from the regulations the text of these conditions of membership. Such conditions of membership could be set out in circular letters addressed to the Federal reserve banks and in this way made available to any banks contemplating applying for admission to the Federal Reserve System.

Section V - Permission necessary prior to make changes in assets or scope of functions.

I respectfully recommend that this section be entirely eliminated from the regulation and that the following sections be renumbered accordingly.

The elimination of this section would not deprive the Board of any power which it now has under the so-called general condition of membership, and would materially reduce the misunderstanding and criticism of the Board's practice in prescribing conditions of membership.

I believe the theory of this section to be sound; but, in view of the Board's experience in attempting to enforce it since 1924, I am convinced that it is impracticable and cannot be enforced. In my opinion, therefore, there is everything to be gained and nothing to be lost by eliminating this section from the regulation.

Section VIII - Examinations and Reports.

I respectfully recommend that the second paragraph of this section be restored in the form in which it appeared in the Regulations of 1924, unless

the Board intends to require regular examinations of all State member banks at some time in the near future.

Heretofore I have suggested the elimination of this paragraph from the regulation; because I understood that the Federal Reserve Board was contemplating a drastic change in the manner of examining State member banks. No such change has been made, however, and, in view of the fact that several of the Federal reserve banks continued to object seriously to the elimination of this paragraph, I think it should be retained, unless the Board intends to make an early change in the matter of examining State member banks.

REGULATION I.

Sections I(e) and II(e)-Certifying Increases and Decreases of Federal Reserve Bank Stock.

In order to make the regulation conform to the present practice, as established by the Board's letter of January 9, 1925 (X-4239), I respectfully recommend that, in both Section I(e) and Section II(e), the sentence reading as follows:

> "Such certifications shall be made quarterly as of the last days of December, March, June and September of each year"

be changed to read:

> "Such certifications shall be made semi-annually as of the last days of June and December of each year".

REGULATION J.

I recommend no changes in Regulation J except the slight change incorporated in the draft of the regulations tentatively approved by the Board on June 21st.

OLD REGULATION K.

I respectfully recommend that the designation of old Regulation K dealing with Edge corporations be changed to Regulation G and that this

regulation be transferred to the place formerly occupied by old Regulation G, which is to be discontinued.

I also respectfully recommend that, before final approval of the revised draft of this regulation, the Board give consideration to the amendment to Section XI requested by the First Federal Foreign Investment Trust in a letter addressed to the Board by Mr. B. F. Castle under date of July 29, and submitted to the Board in my memorandum of August 1.

NEW REGULATION K.

I respectfully recommend that there be inserted at this place the proposed new regulation K dealing with non-cash collections.

Owing to the fact that the tentative draft of this regulation sent to the Federal reserve banks in the Board's letter of June 21st had been hastily prepared on very short notice, the banks criticized many of its details. With the very material assistance of Mr. H. F. Strater, Chairman of the Standing Committee of Collections and other officers of the Federal Reserve Bank of Cleveland, I have prepared a complete new draft of this regulation, which I believe will meet practically all of the criticisms except those made by Governor Young.

The proposed new draft of the regulation on non-cash collections is attached hereto, and I respectfully recommend that it be adopted in the form now submitted.

Governor Young, however, has very serious objections to certain features of this new regulation; and I respectfully recommend that, before finally adopting it, the Board give special consideration to his criticisms, and to a reply thereto which has been prepared by Mr. F. J. Zurlinden, Deputy Governor of the Federal Reserve Bank of Cleveland. In my opinion, Governor Young's objections are not valid; but, in view of his earnest insistence upon them, I feel they should be given consideration by the Board.

REGULATION L.

It is not proposed to make any changes in this regulation,

REGULATION M.

It is not proposed to make any changes in this regulation, except that it was originally proposed to redesignate it as Regulation G and insert it in the place formerly occupied by the old Regulation G, which is to be discontinued. I now recommend that the original designation of Regulation M be unchanged and that the regulation be incorporated in the complete edition of the Board's Regulations immediately after Regulation L.

CONCLUSION.

For the Board's further information, I respectfully submit herewith the replies of the Governors and Chairmen of all Federal reserve banks to the Board's letter of June 21, 1927, submitting the draft of the regulations tentatively approved on that date for their further criticism and comment. In this memorandum, I have attempted to call attention to all important criticisms which would not be met by the changes herein recommended; but I have not attempted to call attention to all minor criticisms or new suggestions submitted at this late date.

I am firmly convinced that, with the changes herein recommended, the draft of the regulations tentatively approved by the Board on June 21 is as good a set of regulations and will prove to be as satisfactory as any set of regulations which could be produced after another six months of suggestions, comments, criticisms, and revisions. It will require the test of experience resulting from actual operation to produce further material improvements in

this draft of the regulations.

In conclusion, I again take the liberty of calling the Board's attention to the importance of amending the regulations so as to make them conform to the amendments contained in the McFadden Act at the earliest possible date. The delay in doing this has already brought upon the Board serious criticism during the recent meeting of the National Association of Supervisors of State Banks, and a further delay is very likely to bring further criticism.

Respectfully,

Walter Wyatt,
General Counsel.

WW MD

(REVISED DRAFT)

REGULATION K, SERIES OF 1927

COLLECTION OF MATURING NOTES AND BILLS

SECTION I. STATUTORY PROVISIONS.

Section 13 of the Federal Reserve Act authorizes Federal reserve banks to receive from their member banks and non-member clearing banks, for collection, maturing notes and bills and to receive from other Federal reserve banks for collection maturing notes and bills payable within the district of the Federal reserve bank receiving such items. The authority to receive such items for collection includes the authority to take such steps and perform such acts as may be necessary to effect collection, and to exercise such other powers as are reasonably incidental to the collection of such items.

SECTION II. DEFINITIONS.

(a) Maturing Notes and Bills. The term "maturing notes and bills" is, for the purposes of this regulation, hereby defined to include the following classes of items payable within the continental United States:

1. Maturing notes, drafts, bills of exchange, acceptances, bankers' acceptances, and certificates of deposit;

2. Drafts on savings accounts with pass-books attached;

3. Checks, drafts and other cash items which have previously been dishonored or on which special advice of payment or dishonor is required;

4. Maturing bonds and coupons; and

5. All other evidence of indebtedness except checks and bank drafts which cannot be collected at par in funds acceptable to the collecting Federal reserve bank; provided that any Federal reserve bank may require any depositing member bank to show to such Federal reserve bank's satisfaction that special conditions exist which make it proper for said Federal reserve bank to handle as a collection item any item of the character normally handled by the Federal reserve bank as a cash item.

(b) NON-MEMBER CLEARING BANK. The term "non-member clearing bank" is defined to mean a non-member bank or trust company which maintains with the Federal reserve bank of the district in which it is located a balance sufficient to qualify it under Section 13 of the Federal Reserve Act to send cash items to the Federal reserve bank for purposes of exchange or collection under Regulation J.

(c) CASH ITEMS. The term "cash items" is defined to mean checks, drafts, and other items which are collectible pursuant to the terms of Regulation J.

(d) COLLECTION ITEMS. The term "collection items" is defined to mean maturing notes and bills which are collectible pursuant to the terms of Regulation K.

SECTION III. GENERAL REQUIREMENTS.

The Federal Reserve Board, desiring to afford to the public and to the various banks of the country a direct, expeditious, and economical system for the collection of maturing notes and bills, has arranged to have all Federal reserve banks collect maturing notes and bills on a uniform basis and on the terms and conditions hereinafter prescribed.

SECTION IV. ITEMS RECEIVED FOR COLLECTION.

(a) Each Federal reserve bank will receive from its member banks and from non-member clearing banks in its district for collection maturing notes and bills payable in the continental United States.

(b) Each Federal reserve bank will receive from other Federal reserve banks for collection maturing notes and bills payable within its own district.

(c) In order to eliminate unnecessary delay and expense and further to increase the efficiency of the collection service herein provided, each Federal reserve bank will authorize all member banks and non-member clearing

banks in its district to send maturing notes and bills for its account direct to the Federal reserve bank of the district in which such items are payable; and each Federal reserve bank will receive from member banks and non-member clearing banks in other districts maturing notes and bills payable within its own district, for collection and credit to the account of the Federal reserve bank of the district in which the sending bank is located.

(d) No Federal reserve bank shall receive for collection any check or bank draft drawn on or payable by a non-member bank which cannot be collected at par in funds acceptable to the Federal reserve bank of the district in which such non-member bank is located, or any item payable outside of the continental United States.

SECTION V. TERMS OF COLLECTION.

The Federal Reserve Board hereby authorizes the Federal reserve banks to handle such maturing notes and bills subject to the following terms and conditions; and each member bank and non-member clearing bank which sends maturing notes and bills to any Federal reserve bank for collection shall by such action be deemed: (a) to have agreed to all the terms and conditions of this regulation; (b) to have warranted to the Federal reserve banks that it has authority to empower the Federal reserve banks to handle such items in the manner hereinafter provided; (c) to have agreed to indemnify any Federal reserve bank for any loss resulting from the failure of such sending bank to have such authority; and (d) to have guaranteed all prior endorsements on such items whether or not a specific guaranty is incorporated in the endorsement of the sending bank.

1. Federal reserve banks will act only as the collecting agents of the sending banks and will be responsible only for due diligence and care in forwarding or presenting such items and for its guaranty of prior endorsements.

2. Federal reserve banks may present or forward such items direct to the banks on which they are drawn, at which they are payable, or through which they are collectible, for payment in cash, bank draft, or solvent credits; or present them direct to the person, firm or corporation on which they are drawn, for payment in cash or check; or, if the item is not payable in a city in which there is a Federal reserve bank or a branch of a Federal reserve bank, then they may, in their discretion, forward them to another agent with the same authority that they have to present or forward them for payment.

3. Items payable in another district will be forwarded for collection to the Federal reserve bank of such district or to a branch of such Federal reserve bank; except that items with a definite maturity, payable in another district, may be forwarded direct to the place of payment in such other district when it is necessary to do so in order to reach the place of payment by maturity, and sight or demand drafts with documents attached, payable in another district, may be forwarded direct to the place of payment when the collecting Federal reserve bank is specifically requested to do so. All such items will be handled on the terms and conditions herein prescribed.

4. Except as herein provided, Federal reserve banks shall be held liable only when they have received actual payment in cash or in the final proceeds of any bank draft or check received in remittance.

SECTION VI. CREDIT FOR PROCEEDS.

No Federal reserve bank shall credit the reserve account of any

member bank or the account of any non-member clearing bank or any other Federal reserve bank with the amount of any maturing note or bill until payment in actually and finally collected funds has been received by the collecting Federal reserve bank.

SECTION VII. CHARGES FOR COLLECTION.

(a) CHARGES BY FEDERAL RESERVE BANKS. No charge shall be made by any Federal reserve bank for the service performed by it in the collection of maturing notes and bills, except that:

1. Any charge made by another collecting agent shall be charged to the bank from which such items were received or shall be deducted and credit given for the actual net proceeds;
2. The actual expense of registration, insurance, or transportation of maturing notes and bills forwarded to other points for collection may be charged to the bank from which such items were received or may be deducted and credit given for the actual net proceeds;
3. All telegraph and telephone charges in connection with the collection of maturing notes and bills may be charged to the bank from which such items were received; and
4. A service charge of fifteen cents per item on all maturing notes and bills returned unpaid and unprotested shall be charged to the bank from which such items were received for collection. This charge shall not be made on items that are protested.

(b) CHARGES BY COLLECTING AGENTS. Any member bank or non-member bank selected by a Federal reserve bank as an agent to collect maturing notes and bills received under the terms of this regulation, may make a reasonable charge for its service in handling such maturing notes and bills; except that no such charge shall be made for handling checks and bank drafts.

SECTION VIII. OTHER RULES AND REGULATIONS.

All Federal reserve banks shall also promulgate rules and regulations identical in terms, not inconsistent with the provisions of the law or of this regulation, governing the details of the collection of maturing notes and bills by such Federal reserve banks . Such rules and regulations shall be binding upon any member or non-member clearing bank which sends maturing notes and bills to its Federal reserve bank or any other Federal reserve bank for account of its Federal reserve bank.

EXCERPT FROM MEMORANDUM FROM

COUNSEL OF FEDERAL RESERVE BOARD

August 3, 1927.

REGULATION D.

Section II(d) - Definition of Savings Accounts.

I respectfully recommend that this section be restored to the form in which it appeared in the Regulations of 1924.

My reasons for this recommendation may be summarized briefly as follows:

(1) The suggested changes are not necessary, since a strict enforcement of the old regulation would enable the Board to check, if not end altogether, the existing tendency to evade the reserve requirements through the device of classifying as "savings accounts" deposits which are subject to check or for any other reason are not bona fide savings deposits.

(2) By ruling on each question as it arises, the Board can build up gradually a series of administrative rulings which would accomplish the purpose of the proposed changes without the shock to the member banks which might result from drastic changes in the regulations without previous notice to the member banks and an opportunity to be heard.

(3) Such a method of correcting the existing abuses would give the Board the advantage of such further information on this general subject as might be obtained as a result of the study being made by the Federal reserve banks, the Federal Reserve Agents and the Federal Advisory Council pursuant to the Board's circular letter of June 24, 1927 (X-4888).

(4) Such a gradual and orderly method of correcting the existing abuses would be obviously fair and less likely to prejudice the Board's case in the courts, if the Board's rulings should be tested there.

(5) In any test suit which might arise out of a specific ruling in an individual case the complainant would naturally be a bank which was attempting to evade the requirements of the law and this would give the Board a distinct tactical advantage.

(6) The existing definition of "savings accounts" has been in force for over twelve years and would stand a much better chance of being upheld by the courts than a new definition recently adopted. An interpretation of the law by an administrative officer or body of the Government which has long been in force and has been generally accepted by the public will be upheld by the courts unless it is clearly erroneous.

(7) The enforcement of a regulation or ruling classifying as demand deposits the so-called "special savings accounts" prevalent in California would so seriously affect the earnings of several of the larger California banks that it would be only fair to notify them and give them an opportunity to be heard before adopting such a regulation or ruling.

(8) Moreover, such banks would be almost certain to test the legality of such a ruling or regulation in the courts; and it is exceedingly important for the Board to be in the best possible tactical position when it undertakes to enforce such a regulation or ruling.

The proposed substitute definition of "savings accounts" prepared at the direction of the Board and transmitted to the Federal reserve banks in the Board's letter of June 21, 1927, contemplated such drastic change and is of such doubtful legality that it is strongly objected to by most of the Federal reserve banks. Upon further reflection and study, I am of the opinion that the proposed restrictions on the character of the depositors and the size of the deposits would exceed the Board's lawful powers and could not be sustained in the courts.

Section II(e) - Definition of Time Certificates of Deposits.

I respectfully recommend that this section be restored to the form in which it appeared in the Regulations of 1924.

The reasons for this recommendation are the same as those given

for the recommendation regarding the definition of "savings accounts".

Section III(a)- Paragraph Regarding Trust Funds.

In order to make the language of this section conform more nearly to that of other portions of the regulation, I respectfully recommend that the word "carry" be changed to "maintain" and that the word "carried" be changed to "maintained".

Section IV-Penalties for Deficiencies in Reserves.

I respectfully recommend that this section be changed to read as follows:

"SECTION IV. PENALTIES FOR DEFICIENCIES IN RESERVES

"Inasmuch as it is essential that the law with respect to the maintenance by member banks of the required minimum reserve balances be strictly complied with, the Federal Reserve Board, under authority vested in it by Section 19 of the Federal Reserve Act, hereby prescribes the following rules governing penalties for deficiencies in reserves.

"(a) Banks in cities where Federal reserve banks or branches thereof are located.

"1. Deficiencies in reserve balances of member banks in cities where Federal reserve banks or branches thereof are located will be computed on the basis of average daily net deposit balances covering semi-weekly periods. Such computations shall be made as at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the semi-weekly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank in a city where a Federal reserve bank or branch thereof is located has an average deficiency in reserves for twelve consecutive semi-weekly periods, there shall be

assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for eight consecutive semi-weekly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective, and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(b) Banks in reserve cities where there are no Federal reserve banks or branches.

"1. Deficiencies in reserve balances of member banks in reserve cities where there are no Federal reserve banks or branches thereof will be computed on the basis of average daily net deposit balances covering weekly periods. Such computations shall be made as at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the weekly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper, in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank in a reserve city where there is no Federal reserve bank or branch thereof has an average deficiency in reserves for six consecutive weekly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for four consecutive weekly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective, and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(c) All other member banks.

"1. Deficiencies in reserve balances of other member banks will be computed on the basis of average daily net deposit balances covering semi-monthly periods. Such computations shall be made as

at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

"2. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the semi-monthly periods ending in the preceding calendar month.

"3. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper, in effect on the first day of the calendar month in which the deficiencies occurred.

"4. When a member bank of this class has an average deficiency in reserve for three consecutive semi-monthly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-monthly reserve deficiencies occurring thereafter, until such member bank has maintained the required average reserve for two consecutive semi-monthly periods. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

"(d) Waiver of Penalty.

"The Federal Reserve Board reserves the right to waive the progressive penalty herein prescribed in any specific case when in its discretion it considers it advisable to do so, upon the recommendation of the Federal reserve bank of the district in which the particular member bank affected is located.

"(e) Continued Deficiencies.

"Whenever any member bank is subject to the maximum penalty of 10 per cent, the Federal Reserve Agent shall promptly report the fact to the Federal Reserve Board with a recommendation as to whether or not the Board should:

"1. In the case of a National bank, direct the Comptroller of the Currency to bring suit to forfeit the charter of such National bank pursuant to Section 2 of the Federal Reserve Act; or

"2. In the case of a State member bank, institute proceedings to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership pursuant to Section 9 of the Federal Reserve Act; or

"3. In either case, take such other action as the Federal Reserve Agent may recommend or the Federal Reserve Board may consider advisable.

I recommend this, because it is substantially the draft agreed upon informally at a conference following the meeting of the Open Market Committee on July 27th, at which five members of the Federal Reserve Board and representatives of some seven or eight Federal reserve banks were present, and because it is believed to be a compromise which will correct the abuses which the Board has in mind and at the same time meet with the least opposition on the part of the Federal reserve banks and the member banks.

On this subject, the varying opinions and shades of opinion are almost as numerous as the Federal reserve banks. Some favor the provisions contained in the tentative draft of the regulations with varying modifications; some favor the alternative draft enclosed in the Board's letter of June 21st, with varying modifications; and some favor a draft along the general lines of that quoted above. No two agree on all details.

If I may be permitted to record my own personal views, I will say that I prefer the draft contained in the tentative draft of the regulations submitted with my memorandum of June 16, 1927; because I believe it is entirely workable and is most nearly in accordance with the intent of the law.

In view of the broad power and discretion vested in the Board in the matter of prescribing regulations and penalties regarding deficiencies in reserves, however, I am of the opinion that it is entirely within the Board's lawful power to adopt any one of the three alternative drafts of this section now before the Board or to leave this section of the regulations in the form contained in the edition of 1924. The question involved is really a question of policy, and the ultimate responsibility rests with the Federal Reserve Board.

Mr. Smead has suggested the insertion of the following new sub-section immediately after subsection (d) of the above draft of Section IV:

> "(e) Notice to Directors of Banks Subject to Progressive Penalty.
>
> "As soon as any bank has been continuously deficient in its reserves for a sufficient length of time to subject it to the progressive penalty, the Federal Reserve Agent shall address a letter to each director of such bank calling attention to the situation and advising him of the requirements of the law and of this regulation regarding the maintenance of reserves and the personal liability of the directors permitting violations of the law".

I believe that this provision not only would accomplish much in the matter of correcting continuous deficiencies in reserves, but also would be helpful in preventing the insolvency of banks by giving the directors timely notice of the development of bad situations. I did not incorporate it in the above draft of Section IV, because it is an entirely new suggestion and had not been submitted to the Federal reserve banks. Governor Crissinger, however, has telegraphed all Federal Reserve Agents for their views on this suggestion; and I recommend that it be inserted in the Regulation, unless the Federal Reserve Agents raise valid objections to it.

If the above quoted sub-section is inserted in Section IV, sub-section (e) of the above draft should be redesignated as sub-section (f).

Section V-Loans and Dividends While Reserves are Deficient.

I respectfully recommend that the last sentence of this section as contained in the Regulations of 1924 be restored, with appropriate changes in phraseology, unless the draft of Section IV contained in the tentative draft of the regulations submitted with my memorandum of June 16th is adopted.

The elimination of this sentence was originally suggested in order to harmonize this section with the proposal to assess penalties for deficiencies

in reserves of all member banks on an actual daily basis instead of an average weekly or semi-monthly basis; and it should be restored unless that proposal is adopted.

I also recommend that the new language proposed to be added at the end of this section be retained.

EXCERPT FROM MEMORANDUM FROM
COUNSEL OF FEDERAL RESERVE BOARD
August 3, 1927.

REGULATION H.

Section 1 - Banks Eligible for Membership.

In order to avoid confusion, I respectfully recommend that the numbering of the first two paragraphs of this section be restored to the form existing in the 1924 Regulations.

Section IV - Conditions of Membership.

I respectfully recommend that this section be changed to read as follows:

"SECTION IV. CONDITIONS OF MEMBERSHIP

"Pursuant to the authority contained in the first paragraph of Section 9 of the Federal Reserve Act, which provides that the Federal Reserve Board may permit applying banks to become members of the Federal Reserve System 'subject to the provisions of this Act and to such conditions of membership as it may prescribe pursuant thereto', the Federal Reserve Board will prescribe for each bank or trust company hereafter applying for admission to the Federal Reserve System such conditions of membership pursuant to the provisions of the Federal Reserve Act as the Board may consider necessary or advisable in the particular case, and such bank or trust company will be required to agree to such conditions of membership prior to its admission to the Federal Reserve System."

This follows substantially the form of the corresponding paragraph of every edition of the Board's regulations on this subject prior to the edition of 1924 and gives the Board exactly the same power with respect to prescribing conditions of membership as it has under the corresponding provision of the Regulations of 1924, except to the extent that such power has been restricted by the amendments contained in the McFadden Act.

The incorporation in the Regulations of 1924 of the text of the conditions of membership most usually prescribed was greatly misunderstood and resulted in much criticism on the part of the National Association of Supervisors

of State Banks, which criticism in turn lead to the restriction of the Board's power by the amendments contained in the McFadden Act. The continued appearance of these conditions of membership in the Board's regulations was again the subject of criticism during the meeting of the National Association of Supervisors of State Banks recently held in Richmond; and I am convinced that it would be highly desirable for the Board to eliminate from the regulations the text of these conditions of membership. Such conditions of membership could be set out in circular letters addressed to the Federal reserve banks and in this way made available to any banks contemplating applying for admission to the Federal Reserve System.

Section V - Permission necessary prior to make changes in assets or scope of functions.

I respectfully recommend that this section be entirely eliminated from the regulation and that the following sections be renumbered accordingly.

The elimination of this section would not deprive the Board of any power which it now has under the so-called general condition of membership, and would materially reduce the misunderstanding and criticism of the Board's practice in prescribing conditions of membership.

I believe the theory of this section to be sound; but, in view of the Board's experience in attempting to enforce it since 1924, I am convinced that it is impracticable and cannot be enforced. In my opinion, therefore, there is everything to be gained and nothing to be lost by eliminating this section from the regulation.

Section VIII - Examinations and Reports.

I respectfully recommend that the second paragraph of this section

be restored in the form in which it appeared in the Regulations of 1924, unless the Board intends to require regular examinations of all State member banks at some time in the near future.

Heretofore I have suggested the elimination of this paragraph from the regulation; because I understood that the Federal Reserve Board was contemplating a drastic change in the manner of examining State member banks. No such change has been made, however, and, in view of the fact that several of the Federal reserve banks continued to object seriously to the elimination of this paragraph, I think it should be retained, unless the Board intends to make an early change in the matter of examining State member banks.

X-4916

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS.

For immediate release. August 3, 1927.
3:00 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of St. Louis for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective August 4, 1927.

October 5, 1926.

THE MERITS OF PAR CLEARANCE.

The par clearance of checks by Federal reserve banks is conducted pursuant to the express provisions of the Federal Reserve Act, which have been construed by the Supreme Court of the United States to mean that -

(1) Federal reserve banks are required by law to receive and collect at par all checks drawn upon member banks of the Federal Reserve System;

(2) Federal reserve banks are authorized to receive and collect checks drawn upon nonmember banks, if such checks can be collected at par;

(3) Member banks are required by law to remit at par for checks drawn upon themselves and presented to them for payment by Federal reserve banks;

(4) If nonmember banks remit at all for checks forwarded to them by Federal reserve banks they must remit at par; and

(5) Federal reserve banks are prohibited by law from paying exchange.

The above principles are definitely established by the decisions in the cases of American Bank & Trust Co. v. Federal Reserve Bank of Atlanta, 262 U. S. 643; Farmers & Merchants Bank v. Federal Reserve Bank of Richmond, 262 U. S. 649, and Pascagoula National Bank v. Federal Reserve Bank of Atlanta, 3 Fed. (2nd) 465, 11 Fed. (2nd) 866, 46 Sup. Ct. 637. Neither the Federal Reserve Board nor the Federal reserve banks, therefore, have any option in the matter and cannot permit banks to deduct exchange when remitting for checks presented by Federal reserve banks.

TRADITIONAL POLICY OF THE UNITED STATES.

When Congress passed the Federal Reserve Act and amendments thereto authorizing Federal reserve banks to collect checks at par, its action was based upon a policy of the United States government which had been thoroughly tested by experience and had been found to be sound, namely,

the policy of the Government to secure at all times acceptability at par for all forms of money or recognized substitutes therefor.

This policy had its inception at the time of the formation of the United States and has been adhered to since that time. Owing to the confusion arising from the various kinds of currency in use and the varying discount at which many of them circulated at the time the Union was formed by the several States, the States surrendered to the United States under the Constitution the sole right to coin money and to provide a uniform standard of value. By appropriate legislation United States coinage was created and immediately became everywhere acceptable at face value.

Again, in 1863 the confusion that had long prevailed in our bank note currency, then an important medium of exchange, caused Congress to legislate on the subject. One of the difficulties with this currency was that most notes issued by country banks did not circulate at par because the issuing banks deducted exchange in paying them when sent for redemption by city banks. The National Bank Acts of 1863-65 cured this difficulty by taxing out of existence notes of the State banks and by creating national bank notes which every national bank was required to receive at par and which were, therefore, everywhere accepted at face value.

Fifty years later, in 1913, when the Federal Reserve Act was under consideration, the use of checks as a medium of exchange had increased enormously. Indeed, the ease and economy with which funds can be transferred and debts settled by checks has been a large factor in the rapid growth of American business and banking. Congress, therefore, in establishing a new and country-wide banking organization followed the traditional policy of the United States and made provisions whereby checks might be paid at par, thereby insuring a wider acceptability for such checks.

Ninety-seven per cent of all payments in this country are now made with checks and the demands of a small number of banks in the smaller cities and towns that they be permitted to maintain their "toll gates on the highways of commerce" through the charging of exchange on checks sent them for collection by Federal reserve banks, is diametrically opposed to the national policy of securing the free circulation at par of all forms of money or recognized substitutes therefor. If heeded, it would greatly discourage the maintenance of deposits in banks which persist in making such charges.

BENEFITS OF PAR CLEARANCE TO THE PUBLIC.

The benefits which accrue to business men and to the public generally under the par clearance system as conducted by the Federal reserve banks may be summarized briefly as follows:

(1) It enables the business man to get 100 per cent payment of his invoices in the most convenient and expeditious manner. This means that when he receives a $100 check for a $100 invoice he gets $100 for it, not less.

(2) It has made the check of the business man, be he merchant, manufacturer, or farmer, a much more satisfactory and acceptable means of payment for all purchases, even in distant cities. It has relieved him from having to purchase drafts or carry bank balances at distant places in order to make distant payments.

(3) It has reduced to a minimum the time required to collect checks, thereby making the proceeds of a check available to its owner much sooner than formerly.

(4) It results in a much more expeditious handling of checks, thus providing prompt advice and return of dishonored checks, and minimizing the chance of loss through bank failures.

EVOLUTION OF THE USE OF CHECKS.

In the earlier and more primitive days, commercial transactions were conducted through barter or the exchange of one kind of goods for another. When money came into use it was necessary for a purchaser of goods to transport the money with which to settle his obligations

to the place of payment or to have it transported by the primitive methods then available. Later, owing to the hazard and expense of the physical shipment of money by an individual, banking institutions undertook, for a consideration, to provide the purchaser of goods with a draft drawn upon a banking institution in a financial center which would be acceptable to the seller of the goods in lieu of cash. To compensate his bank or banker for the expense and hazard of establishing a credit balance in New York or some other financial center the purchaser paid a stipulated sum of money for the draft in addition to its face value.

At this stage of banking practice checks were practically worthless as media for settlement of obligations except within the community where the drawee bank was located, because there was no satisfactory means of collecting such checks.

Banks and bankers made some profit from the sale of drafts to be used in payment of debts; but they observed that, in order to avoid the expense of purchasing exchange drafts, the public continued in a large measure to pay its debts in cash, and that this practice caused large amounts of money to be hoarded and not deposited in banks. Banks and bankers also observed that if the use of checks became general they could greatly increase their own deposits and, through the use of checks drawn on banks in other places, could build up balances in such places without the expense of shipping currency. The banks, throughout the country, therefore, undertook to encourage the public to deposit its money in banks and to use bank checks in payment of debts. They taught the public that checks of individuals, firms, and corporations could be used as a means of discharging their obligations everywhere in a manner convenient to themselves and satisfactory to their creditors. Bank checks, therefore, originated, as instruments

designed for the benefit of banks; since their use enabled banks to facilitate their own operations, to escape the cost of currency transfers, and to obtain vast amounts of deposits which had hitherto been hoarded.

Finally, under the encouragement of banks and bankers, the practice developed of using checks upon the local bank in settlement of transactions with non-residents. At first this practice was confined to settlements with residents of nearby communities; but gradually the practice spread until the check became the almost universal medium of settlement, regardless of the distance between the parties to the transaction. At the present time, in this country, 97% of all payments are made by means of bank checks.

ORIGIN OF "EXCHANGE CHARGES."

Up to the time when the use of bank drafts was in most instances abandoned for the use of checks, the cost of the draft was borne by the purchaser of the draft and not by the person to whom it was sent. When checks came into general use, banking institutions which had formerly secured revenue from the sale of drafts to their customers, reversed the process and deducted so-called "exchange charges" when remitting to out of town banks for checks drawn on themselves. And they did this in spite of the fact that they had the use of their depositor's money during the additional time when his check was travelling to the payee in a distance place and back to the drawee bank for payment.

When a bank receives a general deposit from one of its customers it receives a loan, either without interest or at a very low rate of interest; and, if the purpose of the deposit is to create or maintain a checking account, the bank, in return for the use of its customer's money, undertakes to honor checks drawn against such deposit as and when presented. Under the common

law it is obligated to pay such checks in cash when presented at the bank, but not to remit the proceeds to distant places. When checks were sent in through the mails from distant places, therefore, the banks claimed that in remitting the proceeds to such places they performed a service which they were not obligated to perform and that they were entitled to compensation therefor. It was for this alleged service that they deducted the so-called "exchange charge."

In the old and more primitive days of banking there was some justification for this charge, because it was sometimes necessary for banks to ship cash in payment of such checks. As the banking business developed, however, this necessity was avoided through the maintenance of accounts in correspondent banks against which drafts could be drawn in payment of such checks. The banks, however, continued to impose exchange charges, attempting to justify this practice on the theory that it was still necessary for the paying bank to incur expense in shipping currency from its vaults to maintain its balance with its correspondent banks. At one time this was true, but a means was soon found to avoid this necessity. The rural banks adopted the practice of establishing credit balances in recognized financial centers by depositing drafts on other institutions in which they had credit balances or by sending to the financial center the checks which had come to them on banks in the financial centers or nearby places. The banks in the financial centers became in effect clearing houses for the country banks, and their transactions with the country banks were largely, if not wholly, confined to paper items in lieu of currency.

"EXCHANGE CHARGES" NO LONGER JUSTIFIED

At this stage of the development, practically the only necessity for shipment of currency was between banks in the financial centers, and the cost of these shipments was not charged to the country banks as such, but was absorbed as part of the operating expense of the banking institutions in the financial centers. As the practice existed even prior to the passage of the Federal Reserve Act, therefore, the necessity for a country bank to make currency shipments had practically disappeared, and if its operations resulted in its correspondents in financial centers being required to make currency shipments, no part of the expense incurred by such correspondents was charged as such to the country bank.

After these improvements and economies were adopted it was actually less expensive for a bank to remit by draft for checks drawn on it than it was to pay such checks in cash over the counter. They were required to maintain less idle cash on hand, and the writing and mailing of remittance drafts involved much less actual labor than the counting out and paying of cash over the counter, especially since a number of checks could be remitted for with a single draft.

The exchange charge was, therefore, no longer justified but it still persisted as a sort of petty graft based upon an obsolete practice.

CHECK COLLECTIONS UNDER FEDERAL RESERVE SYSTEM.

Upon the establishment of the Federal reserve banks, even the necessity of currency shipments by the banks in financial centers at their own expense was eliminated, for the reason that most of the banking institutions located in the financial centers became members of the Federal Reserve System and were entitled to make settlement through the Federal reserve bank in their district with any banking institution in the United States wherever located by means of what is known as the Gold Settlement Fund. This fund was created by having each Federal reserve bank deposit gold at the Treasury Department in Washington, receiving therefor a book credit to which is debited or credited at the close of each day's business, upon telegraphic advice from the Federal reserve banks, the net balances due to or from each other Federal reserve bank. By this means the daily transactions between Federal reserve banks, both on their own account and for the account of their member banks, are settled by a mere book transfer of title to gold, without the physical shipment thereof.

It is not overstating the fact, therefore, to say that all expense and hazard formerly incurred by private banking institutions in remitting to distant points for checks drawn on themselves have been virtually eliminated. Even the expense of making remittances to the Federal reserve bank is largely, if not wholly, absorbed by the Federal reserve bank, which furnishes drawee banks with stamped, self-addressed envelopes in which to remit exchange drafts. Where drawee banks elect to remit in cash, rather than by exchange draft, the Federal reserve banks assume all risk and pay all expenses of such shipments.

LESS EXPENSIVE TO REMIT FOR OUT OF TOWN CHECKS THAN TO PAY CHECKS ACROSS COUNTER.

Not only has the expense of making remittances been eliminated, but, through the centralization of the collecting functions in the Federal reserve banks, certain further economies have been effected. Under the old system each bank received every day numerous cash letters from other banks containing checks on it sent for payment. For each cash letter the drawee bank had to write a separate remittance draft and mail same to the sending bank. Since the establishment of the Federal Reserve Collection System practically all of the checks coming to a bank which remits at par come through the Federal reserve bank in a single cash letter and can be paid with a single remittance draft drawn either against funds which the bank is required by law to maintain on deposit with the Federal reserve bank as reserves or against funds which it maintains with other banks for other purposes. In this way the actual labor of paying checks received through the mails has been reduced to an absolute minimum and is much less than the labor and expense of paying them in cash across the counter, as the bank contracts to do when it opens a checking account for one of its customers.

It is perfectly obvious, therefore, that banks no longer incur expenses or perform valuable services when they remit for checks sent to them through the mails, but they actually discharge their obligations to their customers with less labor and less expense to themselves than when they pay such checks across the counter.

BETTER TO REMIT THROUGH FEDERAL RESERVE SYSTEM THAN THROUGH OTHER CHANNELS.

That it is better from the bank's own standpoint to remit at par through the Federal Reserve System than to remit through other channels has been recognized and frankly admitted by some nonmember country banks which have tried both systems, as appears from letters received by Federal reserve banks.

One such country bank, having a capital of $30,000 and a surplus of $20,000 and located in a town with a population of 1075 people, wrote to its Federal reserve bank requesting that its name be restored to the par list, saying:

> "Beginning this date, we will par all items on our bank and will ask you to place us on the par list again, as we find the extra trouble we have is worth more than the exchange we have been getting."

Another small bank with a capital of $25,000 and a surplus of $33,720, and located in a town with a population of 516 people, wrote as follows, to its Federal reserve bank requesting that it again be placed on the par list:

> "We are again taking up the matter with you in reference to handling at par items received by you drawn on this bank, and in that connection we find that the change we made has created quite an additional amount of work on the employees of our bank, and in view of the fact that our business is rapidly increasing we have decided to par all items sent us by you drawn on this bank, and until further notified by us we will remit at par to you for all items sent us from the Federal Reserve Bank."

Still another small bank with a capital of $25,000 and a surplus of $14,000 and located in a town with a population of 500 in requesting that it again be placed on the par list says:

"Please place us back on the par list. After trying out the par proposition and receiving so many cash letters from all over the country, I think the par system much better."

These letters were unsolicited and were taken from the routine correspondence of Federal reserve banks. Further illustrations could be produced in great numbers; but the above are sufficient to indicate the trend of enlightened banking thought.

NO NET PROFIT IN EXCHANGE CHARGES.

In order that a profit might be made out of exchange charges under the old system of collecting checks it was necessary for country banks to avoid the payment of exchange on checks deposited with them for collection by their customers, for if the country bank had to pay exchange on these items the amount they would have to pay would offset the amount they would collect. Country banks could not ordinarily charge back to a customer exchange charges which they had to pay, because when they endeavored to gain his account they assured him that he could deposit his checks for collection and that the bank would replace them to his credit without any charge for making the collection.

In order, therefore, to effect a system whereby they could charge exchange but would be relieved from paying exchange, country banks entered into agreements with banks located in the financial centers under which the country banks were permitted to charge exchange on all checks drawn on them and the banks in the financial center agreed to collect all checks sent to them by the country banks without charging the country banks exchange. The country banks were able to effect such an arrangement with

banks in financial centers only by agreeing to maintain with their city correspondent balances sufficiently large to compensate the city banks for the following items:

1. Interest allowed to the country banks on the account.
2. Exchange paid on the checks collected by the city banks.
3. The actual expense of handling the account and collecting the checks.
4. A profit sufficient to make the business worth while to the city correspondent.

It is very doubtful, therefore, whether the country banks ever derived a net profit from such an arrangement. The exchange charges appeared as a profit on their books; but this was offset by the loss of the use of the funds maintained on deposit with the city correspondent. True, the city correspondent paid interest on this deposit at a low rate - say 2% - but by investing or lending this money themselves the country banks could have earned much more than the exchange charges plus the interest paid by the city correspondent. Otherwise there would have been no profit in the transaction for the city correspondent.

CIRCUITOUS ROUTING AND DELAY IN MAKING COLLECTIONS.

In order to collect checks which country banks sent them the city banks had to pay exchange charges in some instances; but they endeavored by every possible means to avoid the payment of such charges.

In endeavoring to avoid the payment of exchange charges the city banks entered into reciprocal relations with other banks whereby they remitted to each other at par without charging exchange; but such relations were not universal and banks were constantly getting checks on

other banks with which they had no such relations. When they received such checks they did not send them direct to the drawee banks but sent them to other banks with which they had reciprocal relations, hoping that such other banks would be able to find a means whereby the checks could be collected without the payment of exchange charges. This led to the circuitous routing of checks with all of its attendant evils, including the risk and delay resulting from the fact that such checks often would float about the country for weeks before they were finally presented for payment. It was partly to eliminate these evils that Congress authorized Federal reserve banks to institute the Federal reserve check collection system, the benefits of which have been recognized by the overwhelming majority of banks.

It is not probable that there is any country bank which desires to return to the old circuitous routing of checks, to the resulting delay in the collection of checks, and to the necessity of maintaining large balances with city correspondents in order that it may not have to pay exchange. It is now universally recognized by informed country bankers that these old methods and devices of avoiding the payment of exchange are more costly to the country bank than the loss of the amount which it derives from charging exchange.

If, on the other hand, exchange charges were permitted and checks continued to be collected through the Federal reserve banks, all banks would charge exchange on checks drawn upon themselves and would be forced to pay exchange on checks which they receive for collection. The result in general would be that no bank would make any profit out of exchange charges, since the amount a bank would have to pay in exchange charges would approximately balance the amount which it received from such charges. The banks might attempt to pass the exchange charges back to

their depositors; but if they did they would soon hear from their depositors, who have greatly benefited by the par collection of checks and have strongly resisted every attempt to go back to the old practice.

C O N C L U S I O N.

There are in operation in this country at the present time 27,485 banks exclusive of mutual savings bank. Out of this number 23,584 remit at par and without the deduction of an exchange charge for checks drawn upon themselves. Of the 23,584 banks which now remit at par, 14,207 are not members of the Federal Reserve System and they remit at par voluntarily and not under compulsion of law. This is ample evidence of the extent to which enlightened bankers have recognized the advantages of the Federal Reserve Par Collection System.

The practical question whether nonmember country banks should charge exchange on checks really comes to this: Do the country banks prefer to cling to an antiquated banking practice which seems to produce a small revenue, but actually results in a net operating loss, or are they among the forward-looking bankers of the country who recognize that the par clearance system is efficient, economical and profitable, and for the best interests of the country as a whole? One path leads backward to the old conditions of chaos, delay and expense in check clearances. The other steps along with progress and modern banking conditions and provides a means whereby checks, which play such a predominant part in paying the accounts and adjusting the balances of the whole country, may be collected quickly, safely and economically, with a resultant benefit to every user of checks of incalculable value and a corresponding benefit to banks.

X-4920

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS.

For immediate release.

August 4, 1927.
2:30 o'clock p.m.

The Federal Reserve Board announces that it has approved applications of the Federal Reserve Banks of Boston and New York for permission to establish a rediscount rate at each of the banks named of 3 1/2 per cent on all classes of paper of all maturities, effective August 5, 1927.

X-4921

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS

For immediate release.

August 5, 1927.
3:00 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Cleveland for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective August 6, 1927.

X-4922

TREASURY DEPARTMENT
Office of the Secretary
WASHINGTON

August 5, 1927.

The Governor,
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period July 1, 1927, to July 31, 1927, amounting to $119,280.00, as follows:

Federal Reserve Notes, Series 1914

	$5	$10	$20	$50	$100	Total
Boston	100,000					100,000
New York	600,000	350,000	150,000	25,000	5,000	1,130,000
Philadelphia	300,000	100,000	50,000	25,000		475,000
Cleveland	100,000	300,000	150,000		5,000	555,000
Chicago	250,000	100,000	75,000			425,000
St. Louis	100,000					100,000
Minneapolis	100,000					100,000
Kansas City	100,000	50,000	25,000			175,000
San Francisco	150,000	150,000				300,000
	1,800,000	1,050,000	450,000	50,000	10,000	3,360,000

3,360,000 sheets @ $35.50 per M $119,280.00

The charges against the several Federal Reserve Banks are as follows:

Boston	$ 3,550,00
New York	40,115.00
Philadelphia	16,862.50
Cleveland	19,702.50
Chicago	15,087.50
St. Louis	3,550.00
Minneapolis	3,550.00
Kansas City	6,212.50
San Francisco	10,650.00
	$119,280.00

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,

(signed) S. R. Jacobs
Deputy Commissioner.

X-4924.

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release.

August 11, 1927.
4:00 o'clock p. m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Dallas for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective August 12, 1927.

X-4925

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS

For immediate release.

August 12, 1927.
3:00 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Atlanta for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective August 13, 1927.

X-4926

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS

For immediate release.

August 15, 1927.
2:00 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Richmond for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective August 16, 1927.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4927

Aug. 16, 1927.

SUBJECT: Expense, Main Line, Leased Wire System, July, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X-4927-a and X-4927-b, covering in detail operations of the main line, Leased Wire System, during the month of July, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

Enclosures.

TO GOVERNORS OF ALL F. R. BANKS EXCEPT CHICAGO.

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF JULY, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F. R. Banks(1)	Total	Treasury Department Business	War Finance Corporation Business	Net Federal Reserve Bank Business	Per cent of total bank Business (*)
Boston	34,048	2,818	36,866	3,989	-	32,877	3.96
New York	131,520	-	131,520	6,447	-	125,073	15.07
Philadelphia	38,893	2,539	41,432	3,360	-	38,072	4.59
Cleveland	74,805	3,563	78,368	3,890	-	74,478	8.98
Richmond	44,817	4,121	48,938	3,815	-	45,123	5.44
Atlanta	56,563	5,757	62,320	4,117	-	58,203	7.02
Chicago	102,141	4,071	106,212	5,673	-	100,539	12.12
St. Louis	74,893	3,929	78,822	4,219	-	74,603	8.99
Minneapolis	34,686	3,890	38,576	2,349	-	36,227	4.37
Kansas City	78,829	3,983	82,812	5,236	-	77,576	9.35
Dallas	60,830	6,134	66,964	2,650	-	64,314	7.75
San Francisco	104,416	4,069	108,485	5,905	-	102,580	12.36
Total	836,441	44,874	881,315	51,650	-	829,665	100.00
Board			319,370	49,180		270,190	
			1,200,685	100,830		1,099,855	
			100.00%	8.40%		91.60%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-4927-b).

(1) Number of words sent by New York to other F. R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, JULY, 1927

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$260.00	-	-	$260.00	$846.56	$260.00	$586.56
New York	1,130.97	-	-	1,130.97	3,221.62	1,130,97	2,090.65
Philadelphia	225.00	-	-	225.00	981.24	225.00	756.24
Cleveland	296.66	-	-	296.66	1,919.72	296.66	1,623.06
Richmond	232.00	-	-	232.00	1,162.95	232.00	1,135.62(&)
Atlanta	270.00	-	-	270.00	1,500.71	270.00	1,230.71
Chicago	4,249.51(#)	-	-	4,249.51	2,590.98	4,249.51	1,658.53(*)
St.Louis	217.00	-	-	217.00	1,921.85	217.00	1,704.85
Minneapolis	206.86	-	-	206.86	934.21	206.86	727.35
Kansas City	275.64	-	-	275.64	1,998.81	275.64	1,723.17
Dallas	251.00	-	-	251.00	1,656.77	251.00	1,405.77
San Francisco	370.00	-	-	370.00	2,642.28	370.00	2,272.28
Federal Reserve Board	-	-	$15,352.88	15,352.88	-	-	-
Total	$7,984.64	-	$15,352.88	$23,337.52	$21,377.70	$7,984.64	$15,256.26
				1,959.82(a)			1,658.53(b)
				$21,377.70			$13,597.73

(&) Includes $204.67 for branch line business over main line circuit.
(#) Includes salaries of Washington operators.
(*) Credit
(a) Received $1,959.82 from the Treasury Department covering business for the month of July, 1927
(b) Amount reimbursable to Chicago.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4928

August 16, 1927.

SUBJECT: Annual Election of Officers and Approval of Their Salaries.

Dear Sir:

The Federal Reserve Board requests that all Federal reserve banks whose by-laws do not set a time for the annual election of officers or do not provide for the election of officers at the first meeting of the new board of directors held after January 1 each year, amend their by-laws so that the practice of electing officers and fixing their salaries at the first meeting of the new board of directors held after January 1 each year will be uniform throughout the System.

The Board requests that all salary adjustments of employees of the Federal reserve banks be submitted to it, as heretofore, in time for it to act thereon during the month of December and that adjustments in the salaries of officers of the Federal reserve banks be submitted to it immediately following the first meetings in January of the boards of directors at which the directors fix such salaries, subject to the approval of the Board. It is to be understood that salaries approved by the Board for officers of the reserve banks will be effective as of January 1.

The Federal reserve banks will be advised each year of the form in which the Board will desire salary adjustments submitted to it.

By direction of the Federal Reserve Board.

Very truly yours,

D. R. Crissinger,
Governor.

TO CHAIRMEN OF ALL FEDERAL RESERVE BANKS.

C O P Y

(House Bill No. 353)

A N A C T

To expedite and simplify the payment of checks and to provide for return of unpaid checks drawn on closed banks organized under the laws of Ohio and unincorporated banks which have transacted business in the state of Ohio.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

SECTION 1. That when any bank incorporated under the laws of this state or any unincorporated bank transacting business in this state shall have presented to it for collection and payment any check drawn upon it by a depositor in such bank or unincorporated bank, who at the time such check is presented for collection and payment has on deposit an amount equal to such check, if before such check is charged to such depositor's account, such bank or unincorporated bank shall be closed for business by the superintendent of banks of Ohio or by action of its board of directors or by other proper legal action, the superintendent of banks of Ohio or any one who shall at or after the closing of such bank be legally authorized to take charge of the liquidation thereof, shall upon taking charge of the affairs of such closed bank return such check to the person or banking institution by which it was presented to such closed bank for collection and payment.

SECTION 2. In any case where any bank incorporated under the laws of this state or any unincorporated bank doing business in this state, shall have had presented to it for collection and payment a check drawn by a depositor in such bank or unincorporated bank who at the time of the presentation thereof for collection and payment has on deposit a sum equal

to the amount of such check, if such bank or unincorporated bank shall charge to the account of such depositor the amount of such check but shall thereafter be closed for business by the superintendent of banks of Ohio or by action of its board of directors or by any other proper legal action before payment shall have been made of such check, the charging of such check to such depositor's account shall constitute an appropriation by such bank or unincorporated bank of the assets of such bank or unincorporated bank to the payment thereof and shall impress such assets with a trust in behalf of the owner of such check and entitle such owner to payment thereof upon liquidation of the assets of such failed bank as a preferred claim.

SECTION 3. In any case where any bank incorporated under the laws of this state or any unincorporated bank doing business within this state shall have presented to it for collection and payment, a check drawn by a depositor in such bank or unincorporated bank who at the time such check is presented to it for collection and payment has on deposit an amount equal to such check, if after the receipt thereof such bank or unincorporated bank shall charge the account of such depositor with the amount thereof and shall in payment thereof draw a draft upon another banking institution, which draft shall remain unpaid at the time that such bank drawing same is closed by the superintendent of banks of Ohio or by action of its board of directors or other proper legal action, in such event the assets of such closed bank shall be impressed with a trust for the payment of such draft, and the superintendent of banks of Ohio or any one legally charged with the liquidation of such closed bank, shall

pay such draft as a preferred claim out of the assets of such failed bank.

SECTION 4. In any case where any bank incorporated under the laws of this state or any unincorporated bank doing business within this state, shall have in its possession the proceeds realized from the collection of any negotiable instrument by it or by any other collecting agency, at the time that such bank is closed by the superintendent of banks of Ohio or by action of its board of directors or by any other proper legal action, or in any case where any such bank shall in payment of such proceeds of collection draw a draft upon another banking institution which draft shall remain unpaid at the time such bank drawing same is closed, as aforesaid, the assets of such bank so closed shall be impressed with a trust in behalf of the owner of the negotiable instrument the proceeds of which are held by such bank so closed or payment of such proceeds has been attempted by such bank so closed by drawing a draft as aforesaid, and the owner of the negotiable instrument shall be entitled to payment upon liquidation of the assets of such bank as a preferred claim.

O. C. GRAY,
Speaker of the House of Representatives.

EARL D. BLOOM,
President of the Senate.

Passed April 21, 1927.
Approved May 2, 1927.

VIC DONAHEY,
Governor.

Filed in the office of Secretary of State May 4, 1927.

I hereby certify that the foregoing is a true copy of the engrossed bill.

CLARENCE J. BROWN
Secretary of State.

FEDERAL RESERVE BOARD

X-4931

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 18, 1927.

SUBJECT: Holidays, September, 1927.

Dear Sir:

On Monday, September 5th, Labor Day, there will be no Gold Settlement Fund nor Federal Reserve note clearing, and the books of the Board will be closed.

In addition to the holiday mentioned above, the following Federal Reserve Banks and Branches will observe holidays during the month of September on the days specified:

Friday, September 9	San Francisco Los Angeles	(Admission Day (in California
Monday, September 12	Baltimore	(Defenders' Day (in Maryland

Therefore, on the dates indicated, the banks affected will not participate in either the regular Gold Fund Clearing or the Federal Reserve note clearing. Please include your credits for the banks affected on each of the holidays with your credits for the following business day in your Gold Fund clearing telegrams, and make no shipment of Federal Reserve notes, fit or unfit, for account of the Federal Reserve Bank of San Francisco on September 9th.

Kindly notify branches.

Very truly yours,

E. M. McClelland,
Assistant Secretary.

TO GOVERNORS OF ALL FEDERAL RESERVE BANKS.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 23, 1927.

SUBJECT: Par Clearance Suit Against Federal Reserve Bank of Minneapolis.

Dear Sir:

In 1925 the First State Bank of Hugo, Minnesota, a non-member bank, instituted suit in the State court against the Federal Reserve Bank of Minneapolis for damages alleged to have been sustained by reason of the action of the Federal Reserve Bank in attempting to collect at par checks drawn on the plaintiff. The complaint alleged in substance that the Federal Reserve Bank, in order to coerce the plaintiff to remit at par during the year 1920, presented checks over the counter by means of an agent until the plaintiff finally surrendered and agreed to remit at par, which it continued to do until October 1, 1924. In May of this year the case came to trial and a verdict was rendered by the jury against the Federal Reserve Bank in the sum of $1,229.99. The Federal Reserve Bank is now preparing to file a brief in support of a motion for judgment in its favor notwithstanding the verdict of the jury or, in the alternative, for a new trial.

As a result of the verdict rendered in this case a collection agency is soliciting from other banks in the Ninth District claims against the Federal Reserve Bank of Minneapolis growing out of the par collection of checks by the Federal Reserve Bank. For your information a copy of the circular which is being sent out by the collection agency in this connection is enclosed herewith.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosures.

TO GOVERNORS AND FEDERAL RESERVE AGENTS OF ALL FRBANKS

(C O P Y) X-4932-a

145

Harry F. Hart
Collection Agency.

May 27, 1927.

Gentlemen:

I am taking the liberty of addressing this letter to you personally, as it pertains to the interest of your bank as well as to your own interests.

Recently our attention was called to the methods the Ninth District Federal Reserve Bank of Minneapolis used against certain State Banks, regarding an exchange fee that these certain State Banks were entitled to charge on checks drawn on them thru other banks. They requested all checks to be cleared thru them at par.

Upon the failure of certain State Banks to acquiesce to this request, the Federal Bank proceeded to use pressure to collect all its checks daily at the bank's counter. This method could be carried out with great expense to the Federal Reserve Bank, by them forwarding the checks drawn on your bank, to some agent in your town, they generally using the Express Agent, who would take the checks to the bank and present them for collection, demanding payment at a par rate in cash. This practice was characterized by certain banks as coercive, and as a measure intended solely to force non-member banks to accede to the federal bank's regulations and demands, "no matter how expensive."

Such procedure on the part of the Federal Reserve Bank, we believe was unlawful, and it has deprived certain banks of profits annually which they were entitled to. We know of a great number of banks who have been deprived of such profits, and we are at this time making a complete survey of all banks located in the Ninth District, for the purpose of knowing who are interested in recovering their unjust losses, caused by requests and demands of the Federal Reserve Bank.

If your bank is interested, having been deprived of fees and profits caused by such acts and demands of the Federal Reserve Bank, kindly answer the enclosed questions and return them to me at once.

Yours very truly,

(signed) Harry F. Hart

P. S. As you will notice, we are a bonded Agency, and will give you protection and service, if permitted to handle your claim.

(C O P Y)

Kindly answer the following questions.
and return them, as it is to your interests.

1. Are you a member of the Ninth District Federal Reserve Bank of Minneapolis? _____

2. If so, how long have you been a member? _____

3. Do you clear checks thru the Federal Reserve Bank? _____

4. How long have you cleared checks thru the Federal Reserve Bank? _____

5. Has the Federal Reserve Bank ever demanded that your checks be cleared thru them at par? _____

6. Has the Federal Reserve Bank ever used any drastic or embarrassing methods in clearing your checks, other than used by other corresponding banks? _____

7. Has the Federal Reserve Bank ever collected your checks over the counter at par, by sending them to an Express Agent, or someone else in your town for collection, demanding cash for them? _____

8. If your checks were cleared by the Federal Reserve Bank at par, at their request, what do you estimate your losses have been each year for clearing checks at their request? _____

9. Did you approve of the regulations, methods and demands the Federal Roserve Board used in clearing your checks? _____

10. If your bank has been deprived of fees and profits caused by such acts and demands of the Federal Reserve Bank, would you be interested in having your claim collected on a contingent arrangement, without any cost to you? _____

(If you are not a member of the Federal Reserve Bank and have cleared your checks thru them at their request and demand, kindly answer all the above questions.)

FEDERAL RESERVE BOARD

X-4933

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 24, 1927.

SUBJECT: Further Amendment to Regulation K.

Dear Sir:

This is to advise you that the Federal Reserve Board has voted that Section XI of Regulation K, as amended June 8, 1927, (X-4868) be further amended by changing the second paragraph commencing on page 11 which formerly read as follows:

> "B. Certifying that at the time of such substitution or change the additional collateral transferred to the Trustee under the Trust Indenture had a market value at least equal to the market value of the collateral security released from the lien of such Trust Indenture."

so that said paragraph will hereafter read as follows:

> "B. Certifying that such substitution or change has not resulted in a reduction of the aggregate market value of the collateral to an amount below one hundred and ten per cent of the aggregate principal amount of the obligations issued or to be issued against such securities."

By order of the Federal Reserve Board.

Very truly yours,

Walter L. Eddy,
Secretary.

TO GOVERNORS AND CHAIRMEN OF ALL FEDERAL RESERVE BANKS.

X-4934

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

August 24, 1927.

For release Thursday, August 25, 1927.

The Federal Reserve Board has announced the names of the directors appointed for the branch of the Federal Reserve Bank of Richmond soon to be established at Charlotte, North Carolina, as follows:

Appointed by the Federal Reserve Bank of Richmond:

Mr. Hugh Leach, Managing Director.	
Mr. W. H. Wood.	Charlotte, N. C.
Mr. W. J. Roddey, Sr.	Columbia, S. C.
Mr. Robert Gage.	Chester, S. C.

Appointed by the Federal Reserve Board:

Mr. John L. Morehead.	Charlotte, N. C.
Mr. Charles A. Cannon.	Concord, N. C.
Mr. John A. Law.	Spartanburg, S. C.

X-4936

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release. August 25, 1927.

CONDITION OF THE ACCEPTANCE MARKET
July 14, 1927 to Aug. 17, 1927

New bills were scarce in the New York acceptance market during the early part of the reporting period, from July 14 to August 17, and market rates were generally reduced toward the end of July. The supply increased from that time, accompanying a series of reductions in rates in August both in the market and at the reserve banks, and dealers' purchases during the period as a whole were considerably larger on the average than during the preceding four weeks. The demand was active, chiefly on account of foreign orders for the purchase of 90 day bills, but dealers' portfolios nevertheless increased to the largest total of the year. Sales to the Federal Reserve System from all markets were smaller than at any time since 1924. The Boston market was reported dull throughout the period, but with a temporary increase of activity around the first of August. There was little movement in Philadelphia or Chicago. The following table shows the New York market rates on bills of various maturities at the beginning and end of the reporting period.

Acceptance Rates in the New York Market

Maturity	July 14 Bid	July 14 Asked	August 17 Bid	August 17 Asked
30 days	3-5/8	3-1/2	3-1/4	3-1/8
60 "	3-3/4	3-5/8	3-1/4	3-1/8
90 "	3-3/4	3-5/8	3-1/4	3-1/8
120 "	3-7/8	3-3/4	3-3/8	3-1/4
180 "	4	3-7/8	3-5/8	3-1/2

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For release in Morning Papers,
Monday, August 29, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of July and August, as contained in the forthcoming issue of the Federal Reserve Bulletin.

Industrial production declined in July to a level below that of a year ago, while the Department of Labor's index of wholesale prices advanced for the first time since last autumn. Demand for bank credit showed a seasonal increase, but easy conditions prevailed in the money market.

Production.

Output of manufacturers declined in July and was in practically the same volume as a year ago, and the production of minerals, which was further reduced during the month, was at the lowest level since early in 1926, when the anthracite strike was in progress. Iron and steel production in July was in the smallest volume since 1925, and continued at practically the same level during the first three weeks of August. Automobile output for July and the early weeks of August was considerably below that of the corresponding month of last year; production of rubber tires, nonferrous metals and food products and activity of woolen mills were smaller in July than in the preceding month. Cotton consumption was smaller than in June, but continued unusually large for this season of the year. Production of leather, shoes, and lumber increased in July as compared with June. Factory employment and pay rolls showed seasonal decreases in July and were smaller than in any month since 1924. Employment in coal mining has been reduced in recent months, and reports indicate some unemployment in certain of the building trades owing to the decline in the construction of houses. Building contract awards in July and in the first three weeks of August continued larger

than a year ago, the increase reflecting chiefly a growth in awards for engineering projects.

The August 1 cotton report of the Department of Agriculture indicated a production of 13,492,000 bales or 25 per cent less than the record yield of last year. The indicated production of corn, though considerably larger than the expectation in July, was 262,000,000 bushels lower than the harvested crop of 1926. The August estimate of 851,000,000 bushels of wheat indicated an increase of 18,000,000 bushels over the 1926 crop yield.

Trade.

Distribution of merchandise at wholesale and retail showed about the usual seasonal decline in July. Compared with a year ago sales of wholesale firms and department stores were slightly smaller, owing largely to the fact that there was one less business day in July of this year than in July, 1926. Sales of mail order houses and chain stores were somewhat larger than a year ago. Inventories of department stores continued to decline in July and at the end of the month were slightly smaller than a year ago; and wholesale stocks also continued smaller than last year. Shipments of commodities by freight decreased, contrary to the usual seasonal trend, and were smaller in July and in the first two weeks of August than in the same period of last year.

Prices.

The Bureau of Labor Statistics index of wholesale prices advanced slightly in July, reflecting chiefly increases in the prices of corn, livestock, cotton, and leather, while prices of wheat, silk, metals, and building materials declined. Since the latter part of July prices of corn, cotton, and cattle have continued upward and those of wheat, nonferrous metals, and rubber have also advanced, while hogs, lumber and hides have declined.

Bank Credit.

There was an increase in the volume of commercial loans at member banks in leading cities between July 20 and August 17, as is usual at the beginning of the crop-moving season. Loans on securities, as well as commercial loans, increased, while investment holdings declined, and total loans and investments were about $60,000,000 larger than a month earlier.

Total borrowings of member banks at the reserve banks increased slightly between July 20 and August 24; there was a growth of discounts at the Federal Reserve Bank of New York, partly offset by declines in other districts. There was little change inthe system's holdings of acceptances and a growth in the portfolio of United States securities.

Money rates on all classes of paper in the open market declined sharply in August, and were at a lower level than a year ago. Discount rates at eight Federal reserve banks were reduced from 4 to 3½ per cent.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4939

September 1, 1927.

SUBJECT: Reports of Criminal Violations of Law.

Dear Sir:

Under the Board's letter of April 4, 1923, (X-4683) all Federal Reserve Agents have been forwarding to the Board two copies of reports made by them to local United States District Attorneys covering apparent violations of the criminal provisions of Section 22 of the Federal Reserve Act and Sections 5208 and 5209 of the Revised Statutes. In each case one copy of the report has been forwarded by the Board to the Department of Justice. The Department now requests that hereafter two copies of such reports be furnished it, and you are, therefore, requested in future cases to make your reports to the Board in triplicate.

Very truly yours,

J. C. Noell,
Assistant Secretary.

To all Federal Reserve Agents.

X-4940

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

September 6, 1927.
3:30 o'clock p. m.

For immediate release.

The Federal Reserve Board announces that a rediscount rate of 3 1/2 per cent has been established for the Federal Reserve Bank of Chicago on all classes of paper of all maturities, effective September 7, 1927.

X-4942

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release: September 7, 1927.
2 o'clock p.m.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Philadelphia for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities effective September 8, 1927.

X-4944

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release:

September 9, 1927.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of San Francisco for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective September 10, 1927.

(Copy)

X-4945
(See X-3107a)

December 4, 1919.

Dear Mr. Attorney-General:

I am attaching a copy of an opinion of M. C. Elliott, Consulting Counsel of the Federal Reserve Board, concerning the powers of the Board with respect to discount rates, with a view to asking you to investigate the question and to let me have your opinion on the subject as Attorney-General.

I may say that, while I concur fully with the opinion of Mr. Elliott as far as it goes, I think it could have been made even stronger had he known the facts as I know them. My recollection is especially clear in regard to all of the circumstances connected with this feature of the Federal Reserve Act and there can be no question of the intention of Congress to give the Federal Reserve Board complete power in the matter of fixing the rate of rediscount.

Since the rate was not necessarily to be uniform throughout the country, the right to initiate and propose rates was given to the regional banks respectively upon the presumption that each bank would have intimate knowledge of usages and conditions in its own territory; but it was also intended that the Federal Reserve Board should have complete jurisdiction over the whole subject of rates, as it was realized by the proponents of the act that rate-making might, and frequently would, affect the commerce and industry of the entire country. As originally drawn, the Federal Reserve Bill, enumerating the powers of the Federal reserve banks (subsection (d), Section 14), made rediscount rates "subject to review" by the Federal Reserve Board. This term was thought by some members of the committee to be broad

enough in that definition of Webster's Dictionary, which says: "Review---A looking over or examination with a view to amendment or improvement." But some members of the committee contended that the power of the Board should be stated as even more explicit and final; hence we added the words "and determination," so as to make the subsection read:

> "To establish from time to time, subject to review and determination of the Federal Reserve Board, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business."

In my report to Congress on the Bill itself (H. R. 7837) I said, in elucidating this power of the Federal Reserve Board:

> "The power granted in subsection (d) to fix a rate of discount is an obvious incident of the existence of the reserve banks, but the power has been vested in the Federal Reserve Board to review this rate of discount when fixed by the local reserve bank at its discretion. This is intended to provide against the possibility that the local bank might be establishing a dangerously low rate of interest, which the reserve board, familiar as it would be with credit conditions throughout the country, would deem best to raise."

If the Federal Reserve Board has the power to alter a rate of discount proposed by a Federal reserve bank for the reason that it might be a dangerously low rate, it would, by the same token, have authority to reduce the discount rate for the reason that it might be dangerously high.

Furthermore, in subsection (b) of Section 11 the Act confers even greater power upon the Federal Reserve Board than that of reviewing and determining the discount rate of the Federal reserve banks. It authorizes the Board:

> "To permit, or, on the affirmative vote of at least five members of the reserve board, to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Federal Reserve Board."

It is inconceivable that a board having complete authority to

3. The Attorney-General. X-4945 (See X-3107-

regulate the rediscount rates between Federal reserve banks themselves should not have the lesser authority to regulate the discount rates tentatively fixed and proposed by Federal reserve banks.

Again in paragraph 2 of Section 12 of the Federal Reserve Act it will be noted that among the authorized functions of the Federal Advisory Council is power "(3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, etc." If the Federal Reserve Board is not authorized to alter and amend and finally determine discount rates, why should the Federal Advisory Council have been empowered "to make recommendations in regard to discount rates" to the Federal Reserve Board? How idle it would be for the Federal Advisory Council to be making recommendations to a board which has no authority to apply or carry into effect the recommendations thus made! It will be observed that the Federal Reserve Council is not authorized to make recommendations as to discount rates or anything else to Federal reserve banks, but only to the Federal Reserve Board.

Section 14 of the Act, dealing with open market operations, authorizes Federal reserve banks, in accordance with rules and regulations prescribed by the Federal Reserve Board, to engage in a variety of business transactions, the purpose being to enable these regional banks, by the permission or under the direction of the Federal Reserve Board, to exercise a power on discount rates throughout the various regions or throughout the country tantamount to the power exercised over the money market by the Bank of England when it goes into the open market to enforce its discount rates.

Finally, in Section 13 of the Act, it is provided:

X-4945
(See X-3107-a)

4. The Attorney-General

> "The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange and of acceptances authorized by this act shall be subject to such restrictions, limitations and regulations as may be imposed by the Federal Reserve Board."

Thus all through the Act this complete power of review and determination and regulation of discount and rediscount rates is explicity and implicity given the Federal Reserve Board. Without it the Board would be powerless to control operations of any regional bank in the system which might engage in transactions perilous to the entire system and to the commerce and industry of the country.

I would be obliged if you would carefully consider the matter and give me your conclusion at as early a day as possible.

Sincerely yours,

(s) Carter Glass,

Secretary of the Treasury.

The Honorable,
The Attorney General,
Washington, D. C.

(Copy)

X-4945-a
(See X-3107-a - Dec.9,1919)161

October 30, 1919.

My dear George:

I have your memorandum of the 29th, which refers to the right of the Federal Reserve Board to initiate and control discount rates of Federal reserve banks, and note that the Board desires my opinion on this subject:

The determination of this question involves an interpretation of that part of Section 14 which reads as follows:

> "Every Federal reserve bank shall have power ****-
> (d) to establish from time to time, subject to review and determination of the Federal Reserve Board, rates of discount to be charged by the Federal reserve bank for each class of paper which has been fixed with a view of accommodating commerce and business."

It is, of course, clear from this that any rate established by a Federal reserve bank is subject to review and determination of the Federal Reserve Board, but the question you have under consideration is whether the Board, on its own motion, may initiate or establish discount rates for Federal reserve banks, or if a rate has been established, reviewed and approved by the Board, whether the Board subsequently may require the bank to change this rate. This involves a consideration of the relative powers of the Federal Reserve Board and of the board of directors of a Federal reserve bank to control and supervise the operations of the bank. Section 4 of the Federal Reserve Act provides in part as follows:

> "Every Federal reserve bank shall be conducted under supervision and control of a Board of Directors. The Board of Directors shall perform the duties usually appertaining to the office of directors of banking associations, and all such duties as are prescribed by law. Said board shall administer the affairs of said bank fairly and impartially and without discretion in favor of or against any member bank or banks, and shall, subject to the provisions of law and the orders of the Federal Reserve Board, extend to each member bank such discounts, advancements and accommodations as may be safely and reasonably made, with due regard for the claims and demands of other banks."

Section 11 of the Federal Reserve Act, which deals with the powers of the Federal Reserve Board, provides in part as follows:

> "The Federal Reserve Board shall be authorized and empowered *****(j) to exercise general supervision over said Federal reserve banks."

Considering these two provisions of the Act which relate to the supervision and control of the operations of the Federal reserve banks, it appears that the directors of the bank are intrusted with the operations or management of the bank's affairs; that they are vested with the power to perform the usual ordinary duties of bank directors. In the exercise of these powers, however, they are subject to the orders and to the general supervision of the Federal Re-

serve Board. Considering the context and the general purposes of the Act, it may be assumed that Congress did not intend that the Federal Reserve Board should perform the functions usually performed by the board of directors of a bank. Congress however, did give the Federal Reserve Board very broad general powers to supervise the operations of a bank and to see that these operations are conducted in strict accordance with the provisions of the Act and with those regulations and rulings which the Federal Reserve Board, under the terms of the Act, is authorized to make and enforce.

It is hardly necessary to call attention to the various provisions in the Act which sustain the theory, but to illustrate the extent of the control over the bank's operations that is vested in the Federal Reserve Board, it will be recalled that one of the powers enumerated in Section 11, is the power "to suspend or remove any officer or director of any Federal Reserve Bank, the cause of such removal to be forthwith communicated in writing to the Federal Reserve Board, to the removed officer, or director, and to said bank."

To sum up briefly the relative powers of the Federal Reserve Board and of the Board of Directors of a bank, it appears-

(a) That the Board of directors of a bank may supervise and control the operations of the bank so long as its affairs are conducted in accordance with the provisions of law, the regulations of the Board authorized by law, and such orders issued by the Board as the Board is authorized by law to issue;

(b) That the Federal Reserve Board is vested with power to see that the operations of the bank are conducted in strict accordance with the law, its authorized regulations and orders, to impose penalties for violations of the law, even to the extent of removing offending officers and directors.

Coming now to consider the particular provision of the Act involved in the pending question, it is necessary to determine first to what extent and subject to what limitations the Board of Directors of a bank is given control over the establishment of discount rates.

Sec.4, which prescribes the general corporate powers of the bank, contains among others, the following

> Seventh.- To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act, and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this Act."

If no limitations were prescribed by the Act and no specific reference had been made to the fixing of discount rates, it would seem to be clear that the Board of Directors would have power from time to time to establish discount rates as an incidental power necessary to carry on the business of banking within the limitations prescribed by the Act.

If no limitations were prescribed by the Act and no specific reference had been made to the fixing of discount rates, it would seem to be clear that the Board of Directors would have power from time to time to establish discount rates as an incidental power necessary to carry on the business of banking within the limitations prescribed by the Act.

Section 14, however, which enumerates certain special powers of the Federal reserve banks, imposes two limitations or restrictions on the power to fix discount rates. It provides in terms that rates so established by the bank

(a) shall be subject to review and determination of the Federal Reserve Board.

(b) shall be fixed with a view of accommodating commerce and business.

Any rate established must, therefore, conform to those two conditions and if the directors of the bank fix a rate which fails to conform to either of these conditions, the establishment of such rate becomes a violation of the provisions of the act and the Board under its supervisory power may clearly require the readjustment or reestablishment of such rate. In other words, whenever in the opinion of the Board, an established rate does not accommodate commerce and business, it may require the directors of the bank to change the rate so as to meet this requirement.

It may be argued that the discretion is vested in the board of directors of the bank to determine whether or not a rate fixed is fixed with a view of accommodating commerce and business.

Considering, however, the context and general purposes of the Act it is not believed that this view can be maintained. Congress clearly intended this discretion to be vested in the Federal Reserve Board. To assist the Board in the control of this and other matters, it created by Section 12, the Federal Advisory Council, and authorized that Council "to confer directly with the Federal Reserve Board on general business conditions * * *; to call for information and to make recommendations in regard to discount rates." A centralized control of the discount rates is fundamental to the purposes of the Act and provision was accordingly made to furnish the Federal Reserve Board with the best possible information to enable it to exercise a proper discretion in this important matter. It is hardly necessary to emphasize the importance of this control. It affects international as well as our domestic banking and trade relations.

My conclusions, therefore, are, first, that the discretion is vested in the Federal Reserve Board to determine whether any discount rate of a Federal reserve bank accommodates commerce and business; second, that the power to review and determine discount rates is a continuing power, which may be exercised at any time. It necessarily follows from this that the Board of its own motion may require a Federal reserve bank to change an existing rate at any time, if in the opinion of the Board such rate does not meet the requirements of the statute.

Very sincerely yours,

Mr. George L. Harrison,
Counsel, Federal Reserve Board.

(Signed) M.C.Elliott

COPY.

X-3107a

DEPARTMENT OF JUSTICE,

WASHINGTON.

December 9, 1919.

Dear Mr. Secretary:

In response to your request for my opinion concerning the powers of the Federal Reserve Board to regulate discount rates of the several reserve banks, I reply as follows:

By section 14 of the Act of Congress, designated by the short title "Federal Reserve Act" (Act of Dec. 23, 1913, 38 Stat.251), it is provided that "every Federal reserve bank shall have power" -

> (d) to establish from time to time, subject to review and determination of the Federal Reserve Board, rates of discount to be charged by the Federal reserve bank for each class of paper which shall be fixed with a view of accommodating commerce and business.

By section 4 of said act each Federal reserve bank is under the supervision and control of its own board of directors, subject, however, to the provision of section 11 of said act which provides, in part, that

> The Federal Reserve Board shall be authorized and empowered * * * (j) to exercise general supervision over said Federal reserve banks.

> Said Federal Reserve Board is also further authorized and empowered to examine at its discretion the accounts, books and affairs of each Federal reserve bank * * * and to require such statements and reports as it may deem necessary. (Sec.11. subdiv.a.)

By section 12 there is also created a Federal Advisory Council composed of representatives chosen in the manner prescribed in said section, which is to confer directly with the Federal Reserve Board. Among its powers it is authorized to "call for information, to make recommendations in regard to discount rates, rediscount business", etc.

The question for determination is whether, taking into consideration the language of section 14 (d), giving the power to the Federal reserve banks to establish from time to time rates of discount, "subject to review and determination of the Federal Reserve Board", and the further power of the Federal Reserve Board to exercise general supervision over said Federal reserve banks, the power of the Federal Reserve Board is limited to reviewing and approving or disapproving rates of discount made by such banks, or whether said Board may, in the exercise of its powers, from time to time review the rates of discount in use and direct specific changes and alterations thereof.

The legislative history of the act shows that as originally drawn section 14, subsec. (d) conferred the power upon the Federal reserve banks to make discount rates "subject to review" by the Federal Reserve Board, and that said section was amended in committee by adding the words "and determination" after the word "review", so as to make said section read as now enacted.

It is quite evident that if the Federal Reserve Board is confined to the power to review and approve or disapprove rates of discount made by the Federal reserve banks, and is without power to itself direct specific changes, the words "and determination" are wholly without significance. The very signification of the word "determination" used in such a connection, carries with it the right to pass upon and to decide and fix, and thus determine what should be done. Coupling this with the power given the Federal Reserve Board to supervise the business of each Federal reserve bank, taking also into consideration the recommendations contemplated by the Advisory Council to the Federal Reserve Board in regard to discount rates, such power would be futile if such Federal Reserve Board could not, if agreeing to such recommendations, direct them to be carried out. I think it is quite clear that the Federal Reserve Board is the ultimate authority in regard to rediscount rates to be charged by the several Federal reserve banks and may prescribe such rates.

This is in all cases necessarily a review of rates existing at the time in the bank, and therefore strictly calls for the exercise of this power; the determination reached by the Board carries with it the exercise of the power of determination specified in sec. 14, subdiv. (d); and also exercises the power of supervision granted in sec. 11, subdiv. (j).

The scheme of the entire act is to have Federal reserve banks in different parts of the country so that their operations may be accommodated to the business needs of each section, and to vest final

power in the Federal Reserve Board, so as to insure a conduct of business by each bank which will not be detrimental to the carrying out of the entire plan. The powers of the Federal Reserve Board are therefore to be exercised in regard to each reserve bank as the conditions surrounding said bank may dictate, keeping in view the general purpose and plan of the Federal Reserve Act. Bearing in mind such general purpose, I am of the opinion that the Federal Reserve Board has the right under the powers conferred by the Federal Reserve Act, to determine what rates of discount should be charged from time to time by a Federal reserve bank, and under their powers of review and supervision, to require such rates to be put into effect by such bank.

Very respectfully,

(Signed) Alex. C. King

Acting Attorney General.

Hon. Carter Glass,
The Secretary of the Treasury,
Washington, D. C.

FEDERAL RESERVE BOARD

WASHINGTON

X-4946

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 10, 1927.

Subject: Topic for Governors' Conference.

Dear Sir:

There are enclosed herewith copies of a letter from the Deputy Governor of the Federal Reserve Bank of Minneapolis and a memorandum from the Board's Counsel with reference to the question whether Section IV of the Board's Regulation "A" should be interpreted to require that a member bank offering for rediscount the paper of a corporation having subsidiaries, shall have in its files recent copies of separate financial statements of the subsidiary corporations, when there have been filed with the Federal reserve bank copies of the corporation's consolidated financial statement and the individual financial statements of all subsidiary corporations.

The Board has voted to refer this question to the forthcoming Conference of Governors for consideration and an expression of its views.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO ALL GOVERNORS OF FEDERAL RESERVE BANKS.

September 1, 1927. X-4946-a

To - Federal Reserve Board

From - Mr. Wingfield, Assistant Counsel.

Subject: Financial statements required by Section IV, Regulation A, of the Board's Regulations.

There is attached hereto a letter from the Deputy Governor of the Federal Reserve Bank of Minneapolis in which it is stated that the Washburn Crosby Company of Minneapolis files with the Federal Reserve Bank of Minneapolis and the other eleven Federal reserve banks a copy of its consolidated financial statement, and, in addition, a copy of the individual financial statements of all of its subsidiary corporations. The individual statements of the subsidiary companies however, are not filed with the individual banks which buy the paper of the Washburn Crosby Company. These subsidiary companies are 100% owned by the Washburn Crosby Company and all the borrowing is done by that company. The question is raised as to whether Section IV of Regulation A requires that the member bank offering paper of the Washburn Crosby Company for rediscount shall have in its files a recent copy of the separate financial statements of the subsidiary corporations.

Section IV of Regulation A contains the following requirement on this subject:

> "A recent financial statement of the borrower must be on file with the member bank in all cases, unless the note was discounted by a member bank for a depositor (other than a bank) or for another member bank, and -
>
> * * * * * *
>
> "Whenever the borrower has closely affiliated or subsidiary corporations or firms, the borrower's financial statement shall be accompanied by separate financial statements of such affiliated or subsidiary corporations or firms, unless the statement of the borrower clearly indicates that such note is both eligible from a legal standpoint and acceptable from a credit standpoint. * * *"

There is no doubt that this provision absolutely requires that whenever a borrower has closely affiliated or subsidiary corporations or firms the separate financial statements of such affiliated or subsidiary corporations or firms must be on file with the member bank in all cases unless the note falls within one of the exceptions mentioned in the regulation or unless the statement of the borrower clearly indicates that such note is both eligible from a legal standpoint and acceptable from a credit standpoint. There is nothing in the law, however, which requires such financial statements to be filed either with the member bank or with the Federal reserve bank and this requirement is purely a matter of regulation which the Board may waive or modify at its discretion. In this connection it may be stated that the requirement with reference to the filing of separate statements by subsidiary corporations was added to the Board's Regulation A in order that Federal reserve banks might have more complete information regarding the conditions of borrowers having closely affiliated or subsidiary corporations or firms, and also that they might determine whether

the paper of such borrowers is desirable and eligible for rediscount. In view of this fact it would hardly seem necessary for separate financial statements of the subsidiary corporations to be on file with the member bank offering a note of the parent corporation for rediscount if they are on file with the Federal reserve bank. As indicated above, however, the question whether the Board should amend the provision of its regulation with reference to the filing of statements of subsidiary corporations or waive a strict compliance with it is purely a question of policy for the Board's determination.

A somewhat similar case arose in 1924. In that case a borrower filed a financial statement with the Federal Reserve Bank of New York and the Federal Reserve Bank of Boston but no financial statement was filed with the member banks who offered the company's paper to the Federal Reserve Banks for rediscount. The Federal Reserve Bank of Boston took the position that under the provision of Section IV of Regulation A a copy of the financial statement should be filed with the member bank while the Federal Reserve Bank of New York was of the opinion that it was sufficient if the financial statement was on file with the Federal Reserve Bank. This office held that the provision of the regulation clearly required that the financial statement be on file with the member bank but that the Board could if it so desired amend the regulation or waive compliance with it in those cases where the financial statement was filed with the Federal Reserve Bank. The Board at the suggestion of the Federal Reserve Bank of New York submitted the question to the Governors' Conference for discussion. When the Governors' Conference met, however, the question had become academic since the case which gave rise to the question had ceased to exist and the question was passed over by the Governors' Conference. The Board may wish to refer the present question to the next conference of Governors for discussion.

Respectfully,

(s) B. M. Wingfield,

Assistant Counsel.

Letter attached.

X-4946-b

FEDERAL RESERVE BANK

OF MINNEAPOLIS

August 29, 1927.

Federal Reserve Board,
Washington, D. C.

Gentlemen:

The Washburn Crosby Company of this city files with us and the other eleven Federal reserve banks a copy of its consolidated statement, and in addition a copy of the individual statements of all its subsidiary corporations, all certified to by Peat, Marwick, Mitchell & Co. These subsidiary companies are all 100% owned by the parent company, and none of them ask credit in any way outside of an occasional rent and stationery bill. In other words, all the borrowing is done by the parent company. They do not, however, file these individual statements with their brokers, and with the individual banks which buy their paper.

Is it the intention of Section 4 of Regulation A, that in order to be eligible for rediscount, the bank offering the paper for rediscount should have in its files a recent copy of the separate statements?

Yours respectfully,

(s) W. B. Geery,
Deputy Governor.

X-4947

TREASURY DEPARTMENT
Office of the Secretary
WASHINGTON

Sept. 7, 1927.

The Governor,
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period August 1, 1927, to August 31, 1927, amounting to $132,770, as follows:

Federal Reserve Notes, Series 1914

	$5	$10	$20	$50	$100	TOTAL
Boston	100,000	150,000	200,000			450,000
New York	600,000	250,000	150,000	50,000		1,050,000
Philadelphia	200,000		100,000	10,000		310,000
Cleveland	200,000	200,000	150,000		10,000	560,000
Richmond	50,000					50,000
Chicago	350,000					350,000
St. Louis	50,000					50,000
Minneapolis	100,000					100,000
Dallas	100,000	100,000	50,000		5,000	255,000
San Francisco	200,000	250,000	100,000	10,000	5,000	565,000
	1,950,000	950,000	750,000	70,000	20,000	3,740,000

3,740,000 sheets @ $35.50 per M $132,770.00

The charges against the several Federal Reserve Banks are as follows:

Boston	$ 15,975.00
New York	37,275.00
Philadelphia	11,005.00
Cleveland	19,880.00
Richmond	1,775.00
Chicago	12,425.00
St. Louis	1,775.00
Minneapolis	3,550.00
Dallas	9,052.50
San Francisco	20,057.50
	132,770.00

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,
S. R. Jacobs,
Deputy Commissioner.

X-4948

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release. September 12, 1927.

The Federal Reserve Board announces that it has approved an application of the Federal Reserve Bank of Minneapolis for permission to establish a rediscount rate of 3 1/2 per cent on all classes of paper of all maturities, effective September 13, 1927.

C O P Y

X-4949

F E D E R A L R E S E R V E B O A R D

W A S H I N G T O N

July 15, 1927.

Mr. E. W. Stearns,
Deputy Comptroller of the Currency,
Washington, D. C.

Dear Sir:

Receipt is acknowledged of your letter of June 7th in which you request advice from the Board whether a national bank located in Nebraska which has received permission from the Board under the provisions of Section 11(k) of the Federal Reserve Act to exercise trust powers may exercise such powers in Nebraska.

The Board is of the opinion that a national bank located in Nebraska which has received permission from the Board to exercise trust powers may exercise these powers in that State. The reasons for the Board's conclusion may be more fully set out as follows:

Under the provisions of Section 11(k) of the Federal Reserve Act as originally enacted, the Federal Reserve Board was authorized

> "To grant by special permit to national banks applying therefor, <u>when not in contravention of State or local law</u>, the right to act as trustee, executor, administrator, or registrar of stocks and bonds under such rules and regulations as the said board may prescribe."

By an Act which took effect on September 26, 1918, Congress amended Section 11(k) of the Federal Reserve Act in a number of particulars. Under the provisions of this Section as amended the Federal Reserve Board is authorized

> "To grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to

act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.

"Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this Act."

It has been contended that the provisions of Section 11(k) above quoted are unconstitutional and that Congress had no authority to confer trust powers upon national banks. The Supreme Court of the United States, however, in the cases of First National Bank v. Union Trust Company, 244 U. S. 416, and Burns National Bank v. Duncan, 265 U. S. 17, has held that these provisions are constitutional and that Congress did have the power to confer trust powers upon national banks. In view of these decisions there can be no doubt of the right of national banks to exercise trust powers. It is only necessary to determine whether the exercise of such powers by a national bank in a particular State contravenes the laws of that State.

Under the provisions of Section 11(k) of the Federal Reserve Act, set out above, a national bank which has received permission from the Board to exercise fiduciary powers may exercise these powers if to do so is not in contravention of the laws of the State in which the national bank is located. When Congress originally enacted Section 11(k) of the Federal Reserve Act it did not lay down any rule as to what should be deemed to be in "contravention of State or local law" and in the amendment of September 26, 1918, it only partially defined this phrase. It is obvious, however, that if there is no law of the State which either expressly or by necessary implication forbids the exercise of trust powers by a national bank, then the exercise of these powers by a national bank would not contravene the laws of the State.

This construction of the provisions of Section 11(k) has been upheld by the courts in a case which arose in Michigan prior to the amendment of September 26, 1918, First National Bank v. Union Trust Company, 159, N. W. 335. Under the laws of Michigan, trust companies were not permitted to engage in the business of commercial

banking, and commercial banks organized under the laws of Michigan were not authorized to transact the business of trust companies; but there was no statute in Michigan which either expressly or by necessary implication prohibited national banks from exercising fiduciary powers. A national bank was granted permission by the Board to exercise trust powers and upon its undertaking to exercise one of the powers granted to it a suit was instituted by the Michigan authorities to test its right to so act. In this suit it was contended that the exercise of trust powers by national banks was in contravention of the laws of Michigan, and that Section 11(k) was unconstitutional. The Supreme Court of Michigan held that a national bank should not be considered as acting in contravention of State law in the absence of some law of the State which prohibited national banks from exercising trust powers and that such national bank was not acting in contravention of State law merely because that law placed certain requirements on State institutions exercising trust powers which were not applicable to national banks. In its consideration of this point the Supreme Court of Michigan at page 339 said:

> "No state law is contravened - opposed, come into conflict with - because a corporation exercises the indicated powers, nor by the act of Congress creating national banks. The Legislature has not declared that national banks in this state shall not have the right 'to act as trustee, executor, administrator, or registrar of stocks and bonds.' U. S. Comp. Stat. 1913, Sec. 9794(k). And I do not find in Brother BROOKE'S opinion reference to any state law that will be contravened if respondent continues to act in the indicated capacities. To say that because the Legislature has required certain things of a domestic corporation as a condition to the exercise of the right, and cannot require the same or similar things from national banks, therefore the exercise of the right by national banks will be in contravention of state law, seems to me to be an unsound argument."

When the Supreme Court of the United States considered the case of the First National Bank v. Union Trust Company, 244 U.S. 416, it was not necessary for it to determine whether the exercise of trust powers by the national bank was in contravention of the laws of Michigan but it accepted the decision of the Supreme Court of Michigan on this point.

Since the decision of this case it has been clear that the Board was authorized to grant fiduciary powers to national banks in any State the laws of which did not either expressly or by necessary implication forbid the exercise of trust powers by national banks. The Board has been advised that there was no law of Nebraska which either expressly or by necessary implication prohibited national banks from exercising trust powers in that State. Accordingly, the Board, as you know, has granted to a number of national banks in Nebraska the right to exercise trust powers. The Board understands that at the present time there is no law of Nebraska which either expressly or by necessary implication forbids a national bank to exercise trust powers. The Board is, therefore, of the opinion that a national bank in Nebraska which has received permission from the Board to exercise trust powers may lawfully exercise such powers.

The Board is further of the opinion that even if there were a law of Nebraska which by its terms purported to forbid national banks to exercise fiduciary powers, a national bank located in Nebraska which had received permission from the Board would be legally entitled to exercise the trust powers which Nebraska trust companies are authorized to exercise.

When section 11(k) of the Federal Reserve Act was amended by the Act of September 26, 1918, it was provided that whenever the laws of a State authorize or permit the exercise of any or all of the fiduciary powers enumerated in section 11(k) by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of the State law. Since the enactment of the amendment of September 26, 1918, it has been quite generally recognized by the State courts that national banks may lawfully transact a trust business and that the States can not directly or indirectly prevent them from doing so if the State laws authorize the exercise of trust powers by State corporations which compete with national banks.

In Hamilton v. State, 110 Atl. 54, the Connecticut Supreme Court of Errors held that, regardless of State legislation forbidding the exercise of trust powers by national banks or the absence of State legislation expressly sanctioning the exercise of such powers by them, national banks having the necessary permit from the Federal Reserve Board may act in any fiduciary capacities in which competing State corporations are authorized to act by State law. See also Carpenter v. Aquidneck National Bank, 46 R. I. 152, 125 Atl. 358; In re Turner's Estate, 227 Pa. 110, 120 Atl. 701; Stanchfield's Estate, 171 Wisc. 553, 178 N. W. 310; Re Mollineaux, 179 N. Y. S. 90; and Fidelity National Bank and Trust Company v. Enright, 264 Fed. 236.

The right of national banks to exercise trust powers in a State in which competing State corporations are authorized to exercise such powers regardless of whether or not the State law by its terms prohibits the exercise of such powers by national banks has also been definitely

determined by the Supreme Court of the United States. In the case of State of Missouri, ex rel Burnes National Bank v. Duncan, 265 U. S. 17, the Burnes National Bank of St. Joseph, Missouri, was appointed executor under the will of a citizen of Missouri. The Bank applied to the Probate Court for letters testamentary but was denied appointment on the ground that by the laws of Missouri national banks were not authorized to act as executors. Thereupon the national bank applied to the Supreme Court of the State for a writ of mandamus compelling the Probate Court to appoint the national bank as executor. The Supreme Court of Missouri ruled that the Probate Court could not be compelled to appoint the national bank executor. An appeal was taken to the Supreme Court of the United States which reversed the judgment of the Supreme Court of Missouri and held that the national bank must be appointed executor regardless of the provisions of the Missouri law. In so holding, the Supreme Court of the United States said:

> "By the Act of September 26, 1918, c. 177, sec. 2, 40 Stat. 967, 968, amending sec. 11(k) of the Federal Reserve Act, the Federal Reserve Board was empowered 'To grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator . . . or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.' If the section stopped there the decision of the State Court might be final, but it adds the following paragraph, 'Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this Act.' This says in a roundabout and polite but unmistakable way that whatever may be the state law, national banks having the permit of the Federal Reserve Board may act as executors if trust companies competing with them have that power. The relator has the permit, competing trust companies can act as executors in Missouri, the importance of the power to the sustaining of competition in the banking business is so well known and has been explained so fully heretofore that it does not need to be emphasized, and thus the naked question presented is whether Congress had the power to do what it tried to do.

"The question is pretty nearly answered by the decision and fully answered by the reasoning in First National Bank of Bay City v. Fellows, 244 U. S. 416. That case was decided before the amendment to the Federal Reserve Act that we have quoted and come here on the single issue of the power of Congress when the state law was not contravened. It was held that the power 'was to be tested by the right to create the bank and the authority to attach to it that which was relevant in the judgment of Congress to make the business of the bank successful.' 244 U. S. 420. The power was asserted and it was added that 'this excluded the power of the State in such case, although it might possess in a general sense authority to regulate such business, to use that authority to prohibit such business from being united by Congress with the banking function.' 244 U. S. 425. Now that Congress has expressed its paramount will this language is more apposite than ever. The States cannot use their most characteristic powers to reach unconstitutional results. Western Union Telegraph Co. v. Kansas, 216 U. S. 1. Pullman Co. v. Kansas, 216 U. S. 56. Western Union Telegraph Co. v. Foster, 247 U. S. 105, 114. There is nothing over which a State has more exclusive authority than the jurisdiction of its courts, but it cannot escape its constitutional obligations by the device of denying jurisdiction to courts otherwise competent. Kenney v. Supreme Lodge of the World, 252 U. S. 411, 415. So here the State cannot lay hold of its general control of administration to deprive national banks of their powers to compete that Congress is authorized to sustain.

"The fact that Missouri has regulations to secure the safety of trust funds in the hands of its trust companies does not affect the case. The power given by the act of Congress purports to be general and independent of that circumstance and the act provides its own safeguards. The authority of Congressis equally independent, as otherwise the State could make it nugatory. Since the decision in First National Bank of Bay City v. Fellows, 244 U. S. 416, it generally has been recognized that the law now is as the relator contends. Turner's Estate, 277 Pa. St. 110, 116. Estate of Stanchfield, 171 Wis. 553. Hamilton v. State, 94 Conn. 648. People v. Russel, 283 Ill. 520, 524. In re Mollineaux, 179 N. Y. S.90, Fidelity National Bank & Trust Co. v. Enright, 264 Fed. 236."

The Board understands that trust companies organized under the provisions of the laws of Nebraska are authorized to exercise certain enumerated fiduciary powers and are forbidden to do a banking business as defined by the laws of Nebraska. It appears, however, that under the provisions of section 8068 of the Compiled Statutes of Nebraska of 1922 these trust companies are authorized to loan money upon real estate and upon collateral security. National banks are authorized to make similar loans and, therefore, Nebraska trust companies are competitors of national banks to this extent. The Board is accordingly of the opinion that in view of the provisions of section 11(k) of the Federal Reserve Act and the decision of the Supreme Court of the United States in the Burnes National Bank case, it is clear that even if there were a Nebraska law which by its terms prohibited national banks from exercising trust powers a national bank located in Nebraska which had received permission from the Board would be legally entitled to exercise the trust powers that Nebraska trust companies are authorized to exercise.

Summing up briefly the conclusions of the Board it may be stated that the Board is of the opinion that since it appears that there is no law in the State of Nebraska which either expressly or by necessary implication forbids national banks to exercise trust powers in that State a national bank which has received permission from the Board to do so may exercise trust powers in Nebraska. The Board is further of the opinion that even if there were a Nebraska law which by its terms prohibited national banks from exercising trust powers in that State a national bank located in Nebraska which has received permission from the Board would be entitled to exercise the trust powers that Nebraska trust companies are authorized to exercise.

Very truly yours,

(s) D. R. Crissinger,
Governor.

FEDERAL RESERVE BOARD X-4951

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WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 16, 1927.

SUBJECT: Expense, Main Line, Leased Wire System, August, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X-4951-a and X-4951-b, covering in detail operations of the main line, Leased Wire System, during the month of August, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

Enclosures.

TO GOVERNORS OF ALL F. R. BANKS EXCEPT CHICAGO.

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF AUGUST, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F. R. Banks(1)	Total	Treasury Department Business	War Finance Corporation Business	Net Federal Reserve Bank Business	Per cent of total bank Business(*)
Boston	32,082	3,018	35,100	3,792	-	31,308	3.64
New York	139,197	-	139,197	7,083	-	132,114	15.34
Philadelphia	40,967	2,404	43,371	3,406	-	39,965	4.64
Cleveland	80,098	3,383	83,481	3,524	-	79,957	9.28
Richmond	47,688	4,163	51,851	3,234	-	48,617	5.64
Atlanta	60,115	5,642	65,757	3,958	-	61,799	7.18
Chicago	106,793	3,774	110,567	6,251	-	104,316	12.11
St. Louis	79,176	3,812	82,988	4,201	-	78,787	9.15
Minneapolis	33,100	3,639	36,739	2,343	-	34,396	3.99
Kansas City	77,886	3,712	81,598	4,619	-	76,979	8.94
Dallas	64,910	4,889	69,799	2,456	-	67,343	7.82
San Francisco	107,781	3,672	111,453	5,766	-	105,687	12.27
Total	869,793	42,108	911,901	50,633	-	861,268	100.00
Board			323,148	33,894		289,254	
			1,235,049	84,527		1,150,522	
			100.00%	6.84%		93.16%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-4951-b).

(1) Number of words sent by New York to other F. R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

X-1951-C

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, AUGUST, 1927

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$260.00	-	-	$260.00	$784.21	$260.00	$524.21
New York	1,136.97	-	-	1,136.97	3,304.88	1,136.97	2,167.91
Philadelphia	225.00	-	-	225.00	999.65	225.00	774.65
Cleveland	296.66	-	-	296.66	1,999.30	296.66	1,702.64
Richmond	190.00	-	-	190.00	1,215.09	190.00	1,229.76(&)
Atlanta	270.00	-	-	270.00	1,546.87	270.00	1,276.87
Chicago	4,085.26(#)	-	-	4,085.26	2,609.00	4,085.26	1,476.26(*)
St. Louis	205.00	-	-	205.00	1,971.29	205.00	1,766.29
Minneapolis	207.98	-	-	207.98	859.61	207.98	651.63
Kansas City	275.64	-	-	275.64	1,926.05	275.64	1,650.41
Dallas	251.00	-	-	251.00	1,684.75	251.00	1,433.75
San Francisco	370.00	-	-	370.00	2,643.47	370.00	2,273.47
Federal Reserve Board	-	-	$15,353.48	15,353.48	-	-	-
Total	$7,773.51	-	$15,353.48	$23,126.99	$21,544.17	$7,773.51	$15,451.59
				1,582.82(a)			1,476.26(b)
				$21,544.17			$13,975.33

(&) Includes $204.67 for branch line business transmitted over main line circuit.
(#) Includes salaries of Washington operators.
(*) Credit.
(a) Received $1,582.82 from Treasury Department covering business for the month of August, 1927.
(b) Amount reimbursable to Chicago.

FEDERAL RESERVE BOARD

X-4952

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 19, 1927.

SUBJECT: Holidays during October, 1927.

Dear Sir:

On Wednesday, October 12th, there will be neither Gold Settlement Fund nor Federal Reserve note clearing on account of the observance of Columbus Day, and the books of the Federal Reserve Board's Gold Settlement Division will be closed.

For your information, the offices of the Board and the following banks and branches will be open for business as usual:

Richmond	St. Louis
	Little Rock
Atlanta	Memphis
Birmingham	
Nashville	Minneapolis
Jacksonville	
	Kansas City
Detroit	Denver
	Oklahoma City

In addition to the holiday mentioned above, the following branches of the Federal Reserve Bank of Atlanta will be closed on the dates specified:

Tuesday	October 11	Birmingham	Fraternal Day
Friday	October 14	Jacksonville	Farmers' Day

Kindly notify Branches.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F.R.BANKS.

FEDERAL RESERVE BOARD

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WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4954

September 20, 1927.

SUBJECT: Holiday, Detroit Branch,
Tuesday, October 11th.

Dear Sir:

Supplementing our letter X-4952 of September 19, 1927, subject, "Holidays during October" the Board is now advised that the Detroit Branch of the Federal Reserve Bank of Chicago will be closed on Tuesday, October 11th, Primary Election Day in Detroit, and will not participate in either the Gold Settlement Fund or the Federal Reserve note clearing of that date.

Please include your credits of October 11th for Detroit Branch with those of Thursday, October 13th, in the Gold Fund Clearing.

Kindly notify branches.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F.R.BANKS.

X-4955

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release. September 20, 1927.

CONDITION OF THE ACCEPTANCE MARKET
August 18, 1927 to September 14, 1927

The New York acceptance market was somewhat more active during the last half of August and the first half of September than during the preceding reporting period, as indicated by an increase in both the purchases and sales of dealers. Bills bought were based chiefly on imports of silk, coffee, and sugar, exports of cotton, and storage of cotton, sugar, and tobacco. Market sales of longer bills were made chiefly to banks for the account of foreign purchasers, but there was a good local demand for the shorter maturities. Sales to the reserve bank, though larger than in July, were in moderate volume and dealers' portfolios remained near the high levels reached in the middle of August. A reduction in the buying rate on 30 day bills at the reserve bank on August 22 was followed by a corresponding reduction in market rates. The following table shows the market rates on bills of various maturities at the beginning and end of the reporting period.

Acceptance Rates in the New York Market

	August 18		September 14	
Maturity	Bid	Asked	Bid	Asked
30 days	3¼	3-1/8	3-1/8	3
60 days	3¼	3-1/8	3¼	3-1/8
90 days	3¼	3-1/8	3¼	3-1/8
120 days	3-3/8	3¼	3-3/8	3¼
180 days	3-5/8	3½	3-5/8	3½

FEDERAL RESERVE BOARD

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X-4957

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 23, 1927.

SUBJECT: Topic for Governors' Conference.

Dear Sir:

Under date of June 24, 1927 (X-4887), the Federal Reserve Board advised the Governors of all Federal reserve banks that it was not in harmony with the view expressed by the Governors' Conference held last Spring that "in principle, the Federal Reserve Banks should be reimbursed for services performed for Government agencies other than the Treasury, when the expense involved is sufficient to justify the banks asking for reimbursement".

In acknowledging the Board's letter, the Governor of the Federal Reserve Bank of Philadelphia, who had acted as a committee of one for the conference in connection with the matter referred to, suggested that the question might be given further consideration at the next conference. The Board concurred with this suggestion and accordingly the question of reimbursement of the Federal reserve banks for expenses of services rendered for Government agencies is resubmitted for further discussion at the time of the forthcoming conference.

Very truly yours,

Edmund Platt,
Vice Governor.

TO ALL GOVERNORS EXCEPT PHILADELPHIA.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4958

September 23, 1927.

SUBJECT: Topic for Governors' Conference.

Dear Sir:

The Federal Advisory Council at a meeting held on September 17, 1926, called attention to the fact that the various Federal reserve banks have different practices and requirements as to the form and character of credit statements, and expressed the opinion that the requirements and statements should be standardized. This recommendation was discussed at the Governors' Conference following the Council meeting but no action was taken nor was the matter referred to any committee for report at a later conference.

The Federal Advisory Council at its last meeting renewed its recommendation and the Board would like to have the question again considered by the Governors' Conference and to receive a recommendation as to the advisability of attempting uniformity in the matter of credit statements.

Very truly yours,

Edmund Platt,
Vice Governor.

To the Governors of all
Federal reserve banks.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4059

September 23, 1927.

SUBJECT: Topic for Governors' Conference.

Dear Sir:

The Board has received from one of the Federal reserve banks and has voted to refer to the forthcoming Conference of Governors and Federal Reserve Agents, an inquiry as to whether deposits in member banks by building and loan associations and mutual savings banks should be classed as amounts "Due to Banks", within the meaning of Section 19 of the Federal Reserve Act, or should be classed as demand or time deposits, against which amounts "Due from Banks" can not be applied in arriving at the basis for ascertaining required reserves. The Board would like to be advised whether in the opinion of the Governors' Conference the same rule should be extended to include deposits in member banks by cooperative banks, credit unions and Morris Plan banks.

Very truly yours,

Edmund Platt,
Vice Governor.

To the Governors of all
Federal reserve banks.

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For release in Morning Papers,
Wednesday, September 28, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of August and September, as contained in the forthcoming issue of the Federal Reserve Bulletin.

Industrial production increased in August, reflecting a growth in the output of mines, and the distribution of commodities, both at wholesale and at retail, increased by more than the usual seasonal amount. The general level of wholesale commodity prices rose about one per cent, owing chiefly to advances in the prices of farm products.

Production.

Production of anthracite and bituminous coal, which showed a considerable decline earlier in the season, increased sharply in August and the early weeks of September, and this rise was reflected in an advance in the Board's index of mineral output from 98 per cent of the 1923-1925 average in July, to 106 per cent in August. The index of manufactures as a whole showed practically no change for the month. The iron and steel industry continued during August and September with little change in demand or in production, and the output of newsprint, lumber, and cement showed only customary seasonal changes in August. Consumption of cotton remained unusually large for this season of the year, and there was an increase in the production of automobiles, which, however, remained below the output of August of last year. Output of shoes and rubber tires increased from July to August by less than the customary seasonal amount. Factory employment was in practically the same volume in August as in July, and both employment and production were smaller than a year ago. The volume of building contracts awarded in August was smaller than in August, 1926, which was a month of unusually large awards. The largest decreases, as compared with last year, were in the Boston, New York, and Chicago Federal reserve districts.

In the first half of September awards were in practically the same volume as in the corresponding period of last year.

The Department of Agriculture's estimate of corn production on the basis of September 1 condition was 2,457,000,000 bushels, compared with 2,647,000,000 harvested in 1926. The total yield of wheat is expected to be somewhat larger than a year ago. The forecast of the yield of cotton was 12,692,000 bales, representing a reduction of 800,000 bales from the August estimate and over 5,000,000 bales from last year's crop.

Trade.

Distribution of merchandise at wholesale and retail increased more than is usual in August, and sales were generally larger than in August of last year. Sales of wholesale firms in most leading lines were larger than a year ago. Inventories of department stores showed less than the usual seasonal increase in August and at the end of the month were in about the same dollar volume as a year ago. Stocks carried by wholesale firms continued in August generally smaller than last year.

Freight car loadings of nearly all types of commodities increased considerably in August and the early part of September, but, with the exception of grains and miscellaneous products, loadings for all groups continued in smaller volume than in the same period of last year.

Prices.

Wholesale commodity prices, as measured by the index of the Bureau of Labor Statistics, increased from 145 in July to 147 in August. There were large increases in the prices of farm products and of clothing materials, while most of the other groups showed only slight changes. The price of raw cotton advanced from 17 1/2 cents a pound on August 1 to over 23 cents on September 8, but since that date has declined by about three cents a pound. Prices of cotton goods, cattle, hogs, and sugar also increased during August and the first three weeks of September,

while those of grainsdeclined; recently there have been reductions in the prices of some iron and steel products.

Bank Credit.

Total loans and investments of member banks in leading cities between August 17 and September 21 increased by $400,000,000 to the largest figure on record. There were increases in loans on securities and in investments as well as the usual seasonal growth in loans for agricultural and commercial purposes.

The volume of reserve bank credit increased during the month ending September 21, reflecting the seasonal growth in the demand for current and an export of gold. The increase was entirely in the holdings of acceptances and United States securities, as there was little change in the discounts for member banks.

In the open money markets, rates on security loans increased slightly during September, while rates on commercial paper and 90-day bankers' acceptances remained unchanged at the lowest levels of the year. Discount rates at the Federal reserve banks of Philadelphia, Chicago, San Francisco, and Minneapolis were reduced during September from 4 to 3 1/2 per cent, the rate prevailing in the other eight districts.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4961

September 28, 1927.

SUBJECT: Election of Class "A" and "B" Directors.

Dear Sir:

This will confirm the telegram sent you yesterday, advising that the Federal Reserve Board has designated November 15, 1927, as the date for opening the polls in the forthcoming elections of Class "A" and "B" directors, and advising also that no change has been made in the group classifications which for the past several years have governed in these elections.

Very truly yours,

Walter L. Eddy,
Secretary.

To the Chairmen of all
Federal Reserve Banks.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4963

September 29, 1927.

SUBJECT: Amendment to Election Procedure.

Dear Sir:

The election procedure adopted with the approval of the Federal Reserve Board following the conference of Federal Reserve Agents last year, provides among other things that following the election the Chairmen of the Federal reserve banks shall notify each member bank whose ballot was invalidated of the reason for such rejection. This procedure would be possible in the case of member banks whose ballots are invalidated because of errors in their certificates authorizing certain officers to cast the ballots. However, it has been called to the attention of the Board that it would be impracticable to advise all banks whose ballots were invalidated for the reason that many such ballots would be rendered illegal because of the failure of the member bank casting the ballot to properly indicate its choice of candidates, which fact would not be discovered, of course, until the opening of the sealed ballots, at which time it would be impossible to determine the name of the voting bank. Accordingly, the Board has voted to revoke this particular requirement of the election procedure and to suggest instead that the Chairman of each Federal reserve bank, following the election, address a general letter to all voting member banks stating that due to the secrecy of the ballot, it is impossible to tell who cast the respective ballots which under the law could not be counted, on account of their being incorrectly marked, and indicating the number of ballots which were not counted and some of the reasons for their being declared invalid.

Question has also been raised as to the authority of the Chairmen to edit biographical sketches of nominees, which, under the election procedure, are to be secured from the nominees themselves. In the absence of such editorial power, there would undoubtedly be a great and undesirable lack of uniformity in the length of the statements and in the material included. It is the opinion of the Board that the Chairmen of the Federal reserve banks should be given editorial power in connection with these biographical

sketches and it would appear to be proper for the Chairmen to advise the nominees that the sketches they are requested to furnish should be limited to a certain number of words and should follow a suggested outline.

Very truly yours,

Edmund Platt,
Acting Governor.

TO ALL CHAIRMEN.

IN THE SUPREME COURT OF THE STATE OF UTAH.

Chicago, Milwaukee &
St. Paul Railway Co.
Appellant,

v.

Federal Reserve Bank
of San Francisco
Respondent.

Dey, Hoppaugh, Mark & Johnson,
Salt Lake City, Utah,
Attorneys for Appellant,

Albert C. Agnew,
San Francisco, California,
Pierce, Critchlow & Marr,
Salt Lake City, Utah,
Attorneys for Respondent.

GIDEON, J.

The Chicago, Milwaukee & St. Paul Railway Co. instituted this action against defendant Federal Reserve Bank of San Francisco in the District Court of Salt Lake County to recover the sum of $459.99 alleged to be the amount of a check drawn to its order upon the Citizens State Bank of Buhl, Idaho. The case was tried to the court sitting without a jury and resulted in a judgment in favor of defendant. From that judgment this appeal is prosecuted.

A stipulation of facts was entered into by the parties. Testimony was given on issues not covered by the stipulation. There is, however, little, if any, dispute as to the facts. The court made findings on all material issues presented by the pleadings.

By the assignment of errors certain findings of the court are assailed as being contrary to the evidence and also contrary to and inconsistent with other facts found by the court. The main contention of plaintiff, however, is that the judgment of the court is not supported by the findings but is contrary thereto.

From the court's findings the following facts appear:

That on November 17, 1921, at Tomah, in the State of Wisconsin, plaintiff received from one E. E. Beeman of Buhl, Idaho, a check in the sum named drawn on the Citizens State Bank of Buhl; that the check was endorsed in blank by plaintiff and deposited in the Bank of Tomah; that on the date when deposited the amount of the check was credited to plaintiff's account and a draft drawn in favor of plaintiff on the Tomah bank's correspondent in Chicago; that in due course the check was forwarded by the bank at Tomah to the Marine National Bank of Milwaukee, for collection and remittance; that the Milwaukee bank forwarded the check to defendant, Federal Reserve Bank of San Francisco, Salt Lake City branch, for collection and credit; that on November 25, 1921, defendant received the check and forwarded it direct to the Citizens State Bank of Buhl, the drawee bank, for collection and remittance; that the check was received by the drawee bank on November 25th and was charged to the account of the drawer, Mr. Beeman; that the check was marked paid and thereafter the cancelled check was delivered to the drawer and the amount of the check charged to his account; that the Citizens State Bank of Buhl, on the date of the receipt of the check, issued and mailed to defendant at Salt Lake City a draft upon its correspondent, the First National Bank of Twin Falls, Idaho, in payment of this particular check and

other items sent to it by defendant, that the draft was received by defendant at Salt Lake City and was, in regular course, forwarded to the First National Bank of Twin Falls, and the same was received by the last named bank on December 2nd; that the Citizens State Bank of Buhl had been closed by the Commissioner of Finance of the State of Idaho and did not open for business on December 2, 1921; that the First National Bank of Twin Falls refused payment and the draft was returned to defendant; that thereupon defendant charged the amount of the check, through the Federal Reserve Bank of Chicago, against the account of the Marine National Bank of Milwaukee and that bank in turn charged the amount of the check against the Bank of Tomah and the last named bank charged plaintiff's account with the amount; that the Bank of Tomah, in accepting said check from the plaintiff, did so under the following agreement; "This bank in receiving out of town checks and other collections acts only as your agent and does not assume any responsibility beyond due diligence on its part the same as on its own paper;" that the Marine National Bank in accepting said check from the Bank of Tomah did so under the following agreement: "In accepting items payable outside of Milwaukee this bank acts only as your agent and beyond due diligence assumes no responsibility until final returns are received. The right is reserved to forward items direct to drawee bank." Other findings of the court will be noted in the course of this opinion.

Two grounds of negligence are relied upon by plaintiff as stated in its brief: "(1) That the defendant sent the check direct to the drawee bank for collection; (2) that it accepted in absolute payment of said check something other than cash, to wit, a draft drawn upon another bank, and by so doing it made that draft its own, became responsible for the amount thereof, and assumed all risk of collection of that draft."

In the briefs both parties have discussed the right of plaintiff to maintain this action against defendant. The contention of defendant is that there is no privy of contract shown between plaintiff and defendant and hence no basis for any complaint against it for negligence. It is plaintiff's contention, and that is the theory upon which the suit was instituted, that the negligence resulting in the loss was the negligence of its agent, the defendant, and hence the defendant is liable for any negligence which resulted in loss to plaintiff.

It is conceded by both parties that the authorities are not uniform respecting this particular question. There are two lines of authorities recognized by the parties referred to in the cases cited. One is known as the New York rule and the other as the Massachusetts rule. The federal cases follow the New York rule.

The Circuit Court of Appeals, Eighth Circuit, in First National Bank of Denver v. Federal Reserve Bank of Kansas City, Mo., 6 F(2d), at page 341, has this to say respecting these two lines of authority:

> "There exist two rules among the state courts touching the responsibility of banks undertaking collections at a distance. One, known as the New York rule, is that, where a bank undertakes to collect a check or other bill of exchange, it is liable for neglect of duty in its collection arising from the default either of its own officers or any subagent employed to assist in collecting the paper, in the absence of contract or statute varying such liability. The other rule, known as the Massachusetts rule, is that the initial bank

is liable only for the selection of a suitable local agent with whom to entrust the collection and for the transmission of the paper to such agent with proper instructions."

The trial court overruled defendant's argument on this phase of the case by denying its motion for nonsuit and by overruling its demurrer. Whether the court based its findings upon the allegations of the facts respecting the conditions under which the Bank of Tomah received the check in controversy for collection or by reason of the rule of law announced in the decision of the Supreme Court of Wisconsin, or upon other grounds, does not appear in the record. It only appears that the court overruled the contentions of defendant in that regard. We are not called upon to, neither do we in this opinion, determine whether the so-called New York rule or the so-called Massachusetts rule should become the law of this jurisdiction. Nor are we determining whether the conditions upon which the initial bank received the check for collection would import into the contract between the parties the duties imposed by the so-called Massachusetts rule. Concededly the trial court had jurisdiction of the parties and of the subject-matter involved in this controversy. Hence any ruling of the trial court would not involve the question of jurisdiction. Naturally, plaintiff is not complaining of the court's rulings either with respect to the overruling of the demurrer or the denial of the motion for nonsuit. Those rulings were in plaintiff's favor. Defendant has assigned no cross-errors, nor is there any error assigned in any way with respect to the rulings on the demurrer and on the motion for nonsuit. For the defendant to have had the rulings of the court in overruling the demurrer and denying the motion for nonsuit reviewed it should have assigned cross-errors. Otherwise this court has no authority to review such rulings.

Plaintiff in the main relies on the generally accepted rule that a collecting agent is without authority to accept for the debt of his principal anything other than that which the law declares to be legal tender. Such is the rule announced by the great weight of authority, if not by universal authority. The authorities, however, all recognize that this generally accepted rule may be changed or modified either by contract or by some general usage or custom prevailing in the community where the collection is made. That is to say, the authorities recognize that the general rule or custom is incorporated into the contract by which the agent assumes and undertakes to perform the duties required of him.

It is insisted that the defendant bank received a perfectly good check made payable to the plaintiff and surrendered it to the drawee bank without receiving legal tender or any substitute or other paper from which legal tender could be realized. Numerous authorities are cited and quoted from by plaintiff announcing and adhering to the general rule, namely, that it is the duty of a bank or other collecting agent to take in return for a check or other paper entrusted to it for collection only what the law declares to be legal tender.

It is alleged in the answer as an affirmative defense, and the court found, that under a regulation issued by the Federal Reserve Board having general control over Federal reserve banks, it is not negligence for a Federal reserve bank, such as defendant, to forward a check or other negotiable instrument direct to the drawee bank for collection and remittance. The undisputed testimony is that that was the universal custom in Utah and Idaho prior to and since the adoption of the regulation issued by the Federal Reserve Board. The existence of this regulation controlling Federal reserve banks and the uniform custom

of banks in this and adjoining states is not seriously controverted by plaintiff, but it is contended that by reason of the failure of a number of banks in Idaho and the general weakness of the banks in that state at this particular time it was negligence on the part of the defendant, regardless of the custom and regardless of the regulations prescribed for the control of banks such as defendant. We shall refer later to this claim of plaintiff.

The weight of authority, while recognizing the rule of law contended for by plaintiff respecting the duty of a collecting bank, in considering and determining the negligence of such banks also recognizes that if a collecting bank follows an established reasonable custom or usage of banks in the locality where the collecting bank is situated, in the absence of contract or special instructions such collecting bank is not chargeable with negligence. In that regard the trial court in substance found that at the date of the deposit and of forwarding the check to defendant bank it was and prior thereto had been the usage and custom of Federal reserve banks, including the defendant, to forward checks for collection and remittance direct to the banks upon which such checks were drawn and to receive in payment either money or exchange subject to payment drawn by the bank or banks on which the checks were drawn, at the option of the drawee bank. The trial court also found that this practice and custom is and was uniform and continuous and consistent with the best banking practices and necessary and reasonable in the collection of exchanges at par in the volume and to the extent that Federal banks are required to handle business in carrying on and conducting the normal banking transactions of the United States; also that such custom and practice was well known to and recognized by the banks of the country and by the Bank of Tomah and by the Marine National Bank of Milwaukee in particular. The further finding is made that at the time the defendant received the check in question, and for a long time prior thereto, the defendant held out and represented to the public and to remitting banks that it would receive for collection and undertake to collect checks only upon the condition, among others, that the remitting bank authorizes the defendant and its subagents to forward such checks direct to the banks on which the same were drawn and that the remitting banks assumed all responsibility or liability occasioned by or as a result of such direct routing of checks and that the remitting banks authorized the defendant to charge back any item for which it did not receive final payment; also that at the time the check in question was forwarded to the defendant by the Milwaukee bank the conditions upon which the defendant agreed to receive the check for collection were well known to the Marine National Bank and were accepted by it as the conditions and terms upon which the defendant agreed and undertook the collection of such check. The 23d, 24th, 25th and 26th findings of the court are as follows:

> 23. "That at the time of the transactions herein referred to and for a long time prior thereto it was and has been and is now the custom and practice of all banks and bankers in the states of Utah and Idaho to issue and accept in settlement of collection items forwarded to or received by them from banks in other cities or towns exchange upon correspondent banks and that the plaintiff's agents in forwarding the check referred to herein to the defendant for collection did so with full knowledge and notice of the existence of such custom and practice. That said practice and custom was and is uniform and continuous and consistent with the best banking practices and was and is necessary and reasonable in the collection of exchange in the volume and to the extent that commercial banks are required to handle such business in the dispatch of the normal commercial and banking transactions of the states of Utah and Idaho.

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24. "That at the time defendant received said check for collection it had knowledge that banks in southern Idaho, and particularly the banks at Buhl, Idaho, and vicinity, were in an extended condition, and that fifteen banks had already failed in Idaho, in 1921.

25. "That at the time defendant received said check for collection defendant knew that an unusual and unprecedented situation existed in Idaho with respect to the financial condition of banks doing business therein, which financial condition threatened the solvency of said banks.

26. "That the Citizens State Bank of Buhl was not a member bank of the Federal Reserve system and that the defendant had not examined said bank and had under the law no right to examine said bank and that the defendant had no direct or personal knowledge of its condition; or any knowledge other than of the condition of banks in Idaho generally."

These findings of the court are amply supported by the testimony in the record. It would serve no good purpose to review the testimony, especially in view of the fact that the testimony offered by the defendant in that regard is not disputed by any testimony on the part of the plaintiff.

The third and fourth headnotes, which reflect the opinion of the court, to Spokane Valley State Bank v. Lutes, 233 Pac. 308, are:

"Where the evidence showed that there was a general custom among banks to send draft for collection through federal reserve banks rather than directly to the bank upon which it was drawn, held that owner of certificate of deposit was bound thereby, although such custom was not known to him at the time he placed certificate with bank for collection."

"Acceptance of a draft instead of cash, in exchange for certificate of deposit, did not constitute negligence, where evidence showed that it was custom of banks to make remittance by draft and not by shipment of cash."

In Morse on Banks and Banking, 5th Ed. Sec. 220, in discussing "What Law and Usage Shall Govern Collection," it is said:

"The collecting bank must be governed in all matters concerning the time and mode of presentment, demand, and notice by the laws and customs which prevail in the place of its own situation. If the paper has been transmitted from a distant place, where the laws and customs are different, the transmitting party, if he wishes these to be conformed to, must send special instructions to that effect. In that case the collecting bank, if it undertakes the collection, will be bound, at its own peril, not to deviate from the course thus prescribed; though in the absence of express directions it would not be bound to inquire into, nor probably would it even have the right to recognize, if it knew, the laws or usages of any other place than its own. The understanding, which is assumed to be mutual and to enter into the contract of the

parties, is that the bank shall perform the various acts which are embraced in the business of collection in every respect according to the method which it is wont to pursue, in accordance with the local law, rules, and regulations."

In Capital Grain and Feed Co. v. Federal Reserve Bank, 3 Fed (2nd) 614, the District Court of the Northern Division of Georgia, in considering a question similar to the one under review here, at page 615, says:

"While the relationship between plaintiffs and the collecting bank is controlled by the law and the contract at the place of deposit, as has just been ruled, the duty of the correspondent bank is primarily regulated by the law and the customs of banking at the place where it does its business, and may be affected likewise by special instructions given to it or agreements made."

The second headnote to Farmers' Bank & Tr. Co. v. Newland 31 S. W. 38, reads as follows:

"Where one delivers a certificate of deposit to a bank to be collected from a bank in another place, without any inquiry as to the methods of collection, there is an implied understanding that the established usage in making collections will be followed; and if the bank to which it is delivered, acting accordingly and in the exercise of due care, mails the certificate to the payor bank, and receives the latter's check on a bank in a third place, it will not be liable to the owner of the certificate if the payor bank becomes insolvent before presentation of the check."

The fourth headnote to Hilsinger v. Trickett, 99 N. W. 308 is as follows:

"Usage of banks prevalent in the vicinity, and generally followed, are presumed to be reasonable, and the burden of showing them unreasonable is upon the one who assails them; the question being, not is the custom reasonable, but has it been shown to be unreasonable."

Numerous other cases are cited to the same effect.

The foregoing headnotes not only reflect the opinions of the courts in the particular cases, but, in our judgment, they express the weight of authority on the particular question now under review. To demand and receive currency for checks transmitted by banks for collection would greatly hamper the commercial business of the country if not render it practically impossible to conduct the volume of business now known to pass through the clearing houses of the country. There was no effort made to show that this system or usage in vogue in the banking world, and particularly among the banks in Utah and Idaho, is not reasonable or that any better system had been or could be devised for handling the commercial business of the country. The court was therefore fully justified, in our judgment, in finding that the practices and usages of the banks in making these collections in the manner in which the defendant made the collection in this case "was and is necessary and reasonable in the collection of exchange at par in the volume and to the extent that said Federal reserve banks are required to handle such business in the dispatch of the normal commercial and banking transactions of the United States."

Plaintiff, while not conceding the reasonableness or necessity of the rule interposed as a defense in this action, contends that, granting such custom and usage could ordinarily be employed by a collecting bank without incurring liability, nevertheless, by reason of the condition of banks in Idaho at the date in question, it was negligence on the part of defendant to surrender the check in question without receiving currency in exchange therefor. True, the court found that at the time in question an unprecedented situation existed in Idaho with respect to the financial condition of banks, which condition threatened the solvency of the banks. It nevertheless found that the defendant had no means of ascertaining the condition of the Citizens State Bank of Buhl and had no direct or personal knowledge of its condition or any knowledge other than the knowledge of the general condition of banks in the State of Idaho. We are unable to conclude that the knowledge of the general banking conditions in Idaho would require the defendant to depart from the usual custom of collecting checks drawn upon the Citizens State Bank of Buhl in the absence of any knowledge as to its financial responsibility or in the absence of any special directions as to the method to pursue in collecting the check in controversy. The testimony and the findings of the court are all to the effect that the defendant bank, in its efforts to collect the check forwarded it through the bank of deposit, pursued the ordinary and usual method pursued by banks in this community. In doing so it cannot be charged with negligence.

There are other questions discussed in the briefs of counsel, but we are of the opinion that plaintiff must fail on the ground noted and hence it becomes unnecessary to consider such other questions.

Judgment affirmed with costs.

We concur: Thurman, C. J.

Cherry, J.

Hansen, J.

STRAUP, J. (Concurring)

The proper disposition of the case, in some particulars at least, is dependent upon the findings of the court below of which no complaint is made. The court, by finding 15, found:

> "15. That when said check was deposited by plaintiff in the Bank of Tomah said bank issued and delivered to plaintiff in payment thereof its draft drawn upon a Chicago correspondent."

The court further found:

> "17. That the Bank of Tomah in accepting said check from the plaintiff did so under the following agreement,
> 'This bank in receiving out of town checks and other collections acts only as your agent and does not assume any responsibility beyond due diligence on its part the same as on

its own paper.' "

"18. That the Marine National Bank in accepting said check from the Bank of Tomah did so under the following agreement,

'In accepting items payable outside of Milwaukee this bank acts only as your agent and beyond due diligence assumes no responsibility until final returns are received. The right is reserved to forward items direct to the drawee bank.' "

Substantially the same kind of a finding was made as to the defendant bank by finding 22, and wherein the court further found

"That the remitting bank authorized the defendant and its subagents to forward such checks direct to the banks on which the same were drawn for collection and remittance, that such remitting bank assumed full responsibility and liability for any loss through or occasioned by or as a result of such direct routing of checks and that such remitting bank authorized the defendant to charge back any item for which it did not receive final payment."

Upon the fact as found in finding 15 I think it clear that the plaintiff had no cause of action against the defendant. Upon that finding there was no relation of agency between the plaintiff and the Tomah bank nor between plaintiff and defendant. Such finding shows that the title to the check passed from plaintiff to the Tomah bank when plaintiff endorsed the check over to the Tomah bank and received its draft "in payment" thereof, and that the relation between them was that only of endorser and endorsee. In such case if because of negligence of the Tomah bank or any of its transmitting agents the check was not presented in due course and as the result thereof was not paid, or if the failure of its collection was due to negligence of the Tomah bank or of any of its transmitting agents, such negligence in no sense was chargeable to plaintiff, and the Tomah bank had no legal right to charge the loss to plaintiff; and the fact that the loss was charged to plaintiff gave it no right to hold defendant liable for alleged negligence on its part. In such case its rights in the premises were to resist the action of the Tomah bank charging the loss to plaintiff. When plaintiff received the draft direct from the Tomah bank "in payment" of the check endorsed over to it by plaintiff, the plaintiff no longer had any interest in the check. Its concern after that was only with respect to its liability in case of dishonor of the check on due presentation. In such view the judgment in favor of the court below in favor of defendant was right.

But finding 17 is somewhat in discord with finding 15. I do not well see how both may be true. However, no complaint is made of either finding. Thus, what principle of law should be applied to findings 17, 18 and 22, assuming them to be uninfluenced by finding 15, or as though the fact as found by finding 15 was not in the case? Finding 17 shows, not that the title to the check passed to the Tomah bank, not that it became its property, not that anything was given "in payment" of it, but that the Tomah bank received the check only as an agent of plaintiff for collection and to be responsible to the plaintiff for a want of diligence, or for negligence, or for breach of duty, in acting for plaintiff in the collection of it. Upon about the same terms and under about the same conditions the Marine National Bank received the check from the Tomah bank and the defendant bank from the Marine National Bank. In such case, if the loss of the check was occasioned through negligence or want of diligence of the Tomah bank, or of the Marine National Bank, or of the defendant bank, I think plaintiff had a cause of action against the Tomah bank, unless its agreement with plaintiff restricted its liability merely to its own person,

and exclusive of any imputed negligence, or against either of the other banks where negligence occasioned the loss. Whether the agreement as found between plaintiff and the Tomah bank so restricted the latter's liability I need not consider as the action is not against it. Thus because of the relation found, if the defendant bank was negligent which negligence occasioned the loss, I think the action was maintainable against the defendant bank. On such theory, the question then is whether or not on the facts as found the defendant bank was so clearly guilty of negligence which occasioned or caused the loss as to require a finding or conclusion to the contrary to be vacated or disapproved as being not sufficiently supported. Mr. Justice Gideon has considered the case from that viewpoint and reached the conclusion that on the facts as found by the court below the defendant bank was not so clearly or conclusively guilty of negligence or want of diligence as to require a finding to the contrary to be vacated. In that view and in that result I concur.

As pointed out, it is claimed that the defendant bank was negligent in two particulars: (1) In presenting the check direct to the drawee bank, the Citizens State Bank of Buhl; and (2) in not demanding money in payment thereof and accepting a draft or exchange on the Twin Falls bank.

As to the first, it is enough to say that, as found by the court below, the defendant bank received the check for collection on the condition that the check could be or was to be presented direct to the drawee bank. That was the defendant's contract. In receiving the check for collection it had the undoubted right to impose such condition.

As to the second, the matter is not so clear. The court below found that the defendant bank was not negligent in such particular. We are asked to overthrow such finding chiefly on the ground that the defendant bank, in payment of the check, was unauthorized to accept anything but money, and when it accepted the draft on the Twin Falls bank in payment thereof it did so at its peril, and in such respect was especially guilty of negligence because of its knowledge, as found by the court, that the banks in southern Idaho, and particularly the banks at Buhl and vicinity, were in an extended condition, that fifteen banks had failed in Idaho in 1921, and that an unusual and unprecedented situation existed in Idaho with respect to the financial condition of banks doing business therein; but that the defendant bank had no knowledge as to the financial condition of the Citizens State Bank of Buhl. However, also as pointed out by Mr. Justice Gideon, the court further found that there was a well established, prevalent, uniform and continuous custom and usage in banking business in Utah and Idaho, of which the plaintiff had knowledge, that in such case, as here, instead of demanding and accepting only money, to take drafts or exchange upon correspondent banks and that banking business in making collections could not well be conducted on any other basis; that to have pursued any other course would have aggravated the banking conditions in Southern Idaho inasmuch as it was not usual nor customary, nor the practice of banks, to carry in their vaults cash to meet out-of-town collections and in such respect keep reserves or make provisions with correspondent banks for such purpose. That such custom or usage is unreasonable or repugnant to law, or to the terms of any shown contract, may not successfully be asserted. When I say repugnant to or inconsistent with law, I mean something more than a mere rule or doctrine of law, for customs and usages sometimes of necessity are repugnant to mere rules or doctrines of law, nevertheless for such reason are not regarded as invalid or unreasonable. While an agent acting for his principal in collecting a note or check, in the absence of evidence to the contrary, is not authorized to accept in payment of the note or check anything but legal tender and thereby

bind the principal, as is contended by the plaintiff, yet, such generally is a mere rule or doctrine of law which by agreement may be modified or waived; and too, may it be modified or waived by a valid reasonable and relevant custom or usage known to the parties concerned or of such notoriety as to presume knowledge. Valid and reasonable customs and usages concerning the subject-matter of a contract of which the parties are chargeable with knowledge are by implication incorporated therein, unless expressly or impliedly excluded, of course, not to contradict, add to, or take from the contract, or to vary its terms, but on the theory that the usage or custom forms a part of the contract when not in conflict with it. As applied to negligence, the commission or omission of an act, or the doing of it in a particular way, in accordance with a general and usual custom or usage, may not be conclusive against a charge of negligence, for the test in such case is the doing or failure to do what prudent men under similar circumstances would do. The custom or usage may itself not be prudent, hence the doing of an act in accordance therewith may nevertheless constitute negligence. So, while the doing of an act in accordance with custom and usage, doing it as such an act under the same or similar circumstances usually and generally --customarily---is done by those skilled and experienced in the business, is in most jurisdictions not conclusive against a charge of negligence, nevertheless when so performed has great evidentiary or probative value against a charge that the act as so done was negligence. An act performed in a way that it generally and usually is performed by those skilled and experienced in the business at least is prima facie or some proof that such was not a negligent way, and sufficient to support a finding against negligence. And then the finding as to the defendant bank's knowledge as to the financial condition of banks in Idaho and the claim made that by reason thereof due care required the defendant bank to demand and accept only money in payment of the check, are, to some extent at least, minimized by the further finding that banking business in making out-of-town collections could not well be conducted in such way and that to have here pursued such a course would have aggravated the banking condition in southern Idaho for the reason stated in such further findings. I therefore think the finding or conclusion against negligence is sufficiently supported.

I deem it proper to say what I have lest it be assumed that the affirmance of the judgment on the ground stated in the main opinion implies a holding that the action was maintainable by the plaintiff, if the defendant bank was guilty of negligence even though the facts be as found in finding 15.

September 20, 1927.

"Senate Bill No. 55 By Mr. Marsden
(Passed March 10, 1927. Approved March 14, 1927. In effect May 10, 1927)

PREFERENCE TO CLAIMS BASED ON CHECKS, ETC., ON COLLECTION ITEMS OF INSOLVENT BANK.

An Act giving preference to all claims based on checks, drafts and other instruments issued by any bank or trust company in settlement of items for collection in the event of the insolvency of such bank or trust company.

Be it enacted by the Legislature of the State of Utah:

Section 1. Insolvent banks - claims on checks, etc. Claims based on checks, drafts, authorizations to correspondents to charge account, or other instruments, issued by any bank or trust company, in exchange for, or in settlement of any bills, notes, checks, orders, drafts, bonds, warrants, coupons or other evidences of indebtedness (including any such obligations drawn upon such issuing bank or trust company) received by it for collection and remittance or payment, and not for deposit, shall upon the insolvency of such issuing bank or trust company, be entitled to payment in full in preference to and before any payment shall be made upon the claims of depositors and other general creditors of such bank or trust company.

Approved March 14, 1927."

(Chapter 49, Laws of Utah, 1927)

X-4967

TREASURY DEPARTMENT
Office of the Secretary
Washington

207

October 6, 1927.

The Governor
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period September 1, 1927, to September 30, 1927, amounting to $121,942.50, as follows:

	Federal Reserve Notes, Series 1914				
	$5	$10	$20	$50	Total
Boston	200,000	150,000	50,000		400,000
New York	600,000	200,000	50,000		850,000
Philadelphia	150,000		50,000		200,000
Cleveland	250,000	150,000	75,000	10,000	485,000
Richmond	100,000	75,000	25,000		200,000
Atlanta	50,000				50,000
Chicago	350,000	200,000	100,000		650,000
Kansas City	100,000	50,000			150,000
Dallas	150,000	50,000			200,000
San Francisco	150,000	50,000	50,000		250,000
	2,100,000	925,000	400,000	10,000	3,435,000

3,435,000 sheets @ $35.50 per M $121,942.50

The charges against the several Federal Reserve Banks are as follows:

Boston	$ 14,200.00
New York	30,175.00
Philadelphia	7,100.00
Cleveland	17,217.50
Richmond	7,100.00
Atlanta	1,775.00
Chicago	23,075.00
Kansas City	5,325.00
Dallas	7,100.00
San Francisco	8,875.00
	$121,942.50

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,
R. W. Barr,
Acting Deputy Commissioner.

FEDERAL RESERVE BOARD

X-4969

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 12, 1927.

SUBJECT: Expense of Special Counsel in Connection With Checks Stamped Not Payable Through Federal Reserve Bank.

Dear Sir:

The Federal Reserve Board has received from Honorable Newton D. Baker the enclosed statement in the amount of $2,515, covering services and expenses in connection with the effort of certain banks in the Sixth Federal Reserve District to prevent the par collection of checks drawn on themselves by stamping such checks "Not payable through the Federal Reserve Bank of Atlanta." This statement has been approved by the Federal Reserve Board and forwarded to the Federal Reserve Bank of Atlanta for payment.

Inasmuch as Mr. Baker's services in this connection were authorized by the Board as a System matter, it is requested that each Federal reserve bank remit to the Federal Reserve Bank of Atlanta its pro rata share of the expense (based on capital and surplus as of October 5, 1927), as follows:

Boston	-	$ 189.19
New York	-	707.52
Philadelphia	-	241.07
Cleveland	-	263.36
Richmond	-	128.99
Atlanta	-	103.24
Chicago	-	343.90
St. Louis	-	106.44
Minneapolis	-	73.57
Kansas City	-	92.57
Dallas	-	87.33
San Francisco	-	177.82
		$2,515.00

By direction of the Federal Reserve Board.

Very truly yours,

Walter L. Eddy,
Secretary.

TO ALL GOVERNORS, EXCEPT ATLANTA.

(Enclosure)

COPY

X-4969-a

BAKER, HOSTETLER & SIDLO
Counsellors at Law,
Union Trust Building,
Cleveland.

The Federal Reserve Bank
of Atlanta.

TO- Newton D. Baker, Dr. August 18, 1927.

	To professional services in connection with endorsement by Hartford and other banks on cashiers' and other checks attempting to restrict clearance of such through Federal Reserve Banks.	$2,500.00
May 9	Expenses in Washington in connection with par clearance matters.	15.00
		$2,515.00

FEDERAL RESERVE BOARD

WASHINGTON

X-4971

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 14, 1927.

SUBJECT: Deductions in Computing Reserves of Member Banks.

Dear Sir:

Pursuant to the action taken by the last Governors' Conference the Federal Reserve Board has given careful reconsideration to its ruling contained in the last paragraph of the Board's letter of March 24, 1927, (X-4816). In this ruling, which had to do with items such as coupons, checks drawn on themselves by corporations other than banks, bill of lading drafts, etc., it was held that where there is an agreement between the forwarding bank and the correspondent bank by the terms of which credit is given to the forwarding bank immediately upon receipt by the correspondent, items of this kind may be deducted from due to bank balances by the forwarding bank in computing its reserves as soon as these items have been placed in the mails and charged to the account of the correspondent bank, regardless of whether or not the forwarding bank has given credit to its own depositor.

The last Governors' Conference took the position that this ruling would have the effect, if generally adopted as a practice by member banks, "of reducing very considerably the liability in the item 'due to banks', upon which the reserve calculation is made, which appears to be unjustifiable."

The question whether certain items should be considered as amounts "due from" banks is separate and distinct from the question whether such items constitute deposit liabilities against which reserves should be maintained. The two questions are independent and the answer to one of them does not necessarily depend upon the determination of the other. For instance, items received by the forwarding bank in payment of debts due it or items otherwise actually owned by the forwarding bank are deductible from "due to" bank balances when forwarded for collection and charged to the account of the correspondent bank, notwithstanding that there is no corresponding deposit liability. The right to deduct amounts from balances due to banks does not depend under the law, on whether or not there is a corresponding deposit liability but on whether the amounts proposed to be deducted may properly be considered "due from other banks."

In the Board's ruling on this subject of March 24, 1927, (X-4816) the question under consideration was whether items of the kind described might be deducted as "due from bank balances" where there was an agreement by the correspondent bank to give immediate credit to the forwarding bank for such items. In the Board's opinion as set forth in that ruling, when there is an agreement between the forwarding bank and the correspondent bank by the terms of which credit is given to the forwarding

bank immediately upon receipt by the correspondent, such non-cash items when placed in the mails and charged to the account of the correspondent bank may be deducted by the forwarding bank in computing its reserves, regardless of whether or not the forwarding bank has given credit to its own depositor. In the absence of such an agreement the deduction may not be made until the items have actually been collected and placed to the credit of the forwarding bank.

Upon consideration of the other phase of this matter, it is the Board's opinion that when there is an agreement by the correspondent bank to give credit to a forwarding bank immediately upon receipt, items such as coupons, checks drawn on themselves by corporations other than banks, bill of lading drafts, etc., which have been placed in the mails and charged to the account of the correspondent bank in accordance with the existing agreement, should be considered deposit liabilities of the forwarding bank against which reserves should be computed. Where items of this kind are forwarded by a bank to its correspondent under an agreement for immediate credit by the latter, they are in effect being treated as checks or other cash items. Cash items, however, while deductible as "due from bank balances" when placed in the mails and charged to the account of the correspondent bank, also constitute deposit liabilities against which reserves should be maintained by the forwarding bank. Accordingly, such non-cash items should, when the conditions described exist, be included in deposit liabilities against which reserves must be maintained.

By direction of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

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

FEDERAL RESERVE BOARD

WASHINGTON

X-4972

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 15, 1927.

SUBJECT: Topic for Governors' Conference-
Proposed Revision of Regulation D.

Dear Sir:

The Federal Reserve Board has voted to place on the program for discussion at the forthcoming Governors' Conference the proposed revision of its Regulation D dealing with reserves of member banks.

In this connection there are enclosed for your information the following documents:

1. A copy of a memorandum addressed to the Board by its General Counsel under date of August 3, 1927 (X-4915) containing his final recommendations regarding the regulations. Regulation D is discussed on pages 2 to 10, inclusive, of this memorandum.

2. Copies of certain letters addressed to the Board by members of the Executive Committee of the Federal Advisory Council expressing their views with regard to the proposed revision of Section IV of Regulation D dealing with the subject of penalties for deficiencies in reserves.

You will remember that, under date of April 23, 1927 (X-4830), the Board sent to the Governor of each Federal reserve bank a copy of the first tentative draft of the revised regulations and, under date of June 21, 1927 the Board sent to the Governor of each Federal reserve bank a revised draft of the regulations in the form in which they had been approved tentatively by the Board on that date, together with an alternative revision of Section IV of Regulation D. Upon receipt of this letter, therefore, you will have in your possession not only the draft of Regulation D which is now under consideration but also copies of all the preceding drafts.

By direction of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

TO GOVERNORS OF ALL F. R. BANKS.

Enclosures.

(COPY)

X-4972-a 213

FEDERAL ADVISORY COUNCIL

OFFICE OF THE SECRETARY

38 South Dearborn Street

Chicago, October 4, 1927.

Dear Mr. Platt:

Mr. Wetmore has received from members of the Executive Committee of the Federal Advisory Council various communications of which he has instructed me to send you copies. I am not sending anything from Mr. Rue since he did not add anything in his communication to us which he did not send to you under date of September 29.

Very truly yours,

(Signed) Walter Lichtenstein

Secretary

Acting Governor Edmund Platt,
Federal Reserve Board,
Washington, D. C.

(COPY)

214

A-4978-b

September 28, 1927.

Dear Mr. Wetmore:

I have received from Mr. Lichtenstein as Secretary of the Federal Advisory Council a draft of the proposed new regulations for figuring reserves; also a copy of his personal letter of the 24th instant to Mr. Edmund Platt, Acting Governor, which quotes your telegram of the 23rd instant to Mr. Platt.

All of these papers have been considered by the Vice President handling our reserve position, who tells me that he can adjust our operations to the new regulations without much difficulty, but that he is not sympathetic with the change, as the weekly average has generally worked well, and thinks some method might be devised for dealing with the few banks whose dealings with respect to reserves are out of harmony with the spirit of the regulations.

If, as I understand, the Federal Reserve Board is all ready to issue these new regulations, I personally think it might be as well that they be given a trial.

Sincerely yours,

(Signed) J. S. Alexander.

(COPY)

September 30, 1927.

Dear Mr. Lichtenstein:

I am in receipt of your letter of the 29th with enclosures as stated -- copies of recommendations made by the Federal Reserve Council. Also acknowledge receipt of your telegram yesterday with reference to the proposed change in regulation D, Section Four by the Federal Reserve Board in connection with figuring reserve requirements. I have sent a telegram today to Mr. Platt, Acting Governor of the Federal Reserve Board in Washington, copy of which is enclosed. I have also had a conference with Gov. Fancher on the subject and I get the impression that some of the banks in the larger cities are the chronic offenders and I have been taking the position that the proposed changes are disturbing and should be handled by regulations and penalties exacted of the chronic offenders only. I am inclined to the belief, however, that the Federal Reserve Board at Washington are determined and the governors are supporting them in the proposed change. I concur in Mr. Wetmore's telegram to Mr. Platt.

Very truly yours,

(Signed) Harris Creech.

(Copy)

X-4972-d

September 30, 1927.

Dear Mr. Lichtenstein:

Referring to your letter of September 24th, in regard to the proposed draft of new regulations for figuring the reserves.

In going over the situation here in St. Louis I am lead to consider the following circumstances.

As far as the member banks in the City of St. Louis are concerned, I believe it would be contrary to their interest to have the proposed regulations requiring a semi-weekly settlement put into effect. Now the banks adjust their balances to meet reserve requirements before two o'clock each day and they may get wire instrudtions for transfers from other cities in very large amounts too late to get credit for them, or to adjust their balances to fit the situation that day.

Moreover, I understand the Federal Reserve Bank will not give member banks here credit for air mail remittances except for certain number of days, for instance, New York - two days. Yet, if it turns out that the remittance on that day gets to New York, and the member bank gets credit next morning, the Federal Reserve Bank in St. Louis will adjust this matter and give the member bank here credit as of the time the money was actually received in New York. That leaves the member bank here in the position where it cannot definitely tell just what its balance for the day is, and if they make two settlements in a week there is just twice as much chance for the member bank here to either have excess without interest or be penalized when they did not intend to have either.

If the member banks here had a voice in the matter I am sure they would oppose the change and at present that is my view.

I am dictating this letter to my confidential secretary, Mr. Davenport, and will not wait for it to be written and will leave him to sign it for me.

Very truly yours,

(Signed) Breckinridge Jones.

(COPY)

X-4972-c

Sept. 27, 1927.

Dear Mr. Wetmore:

I have a letter from Dr. Lichtenstein dated the 24th, enclosing proposed draft of regulations covering reserves of member banks, also copy of his letter to Mr. Platt, acting Governor, Federal Reserve Board, bearing same date. I agree with your telegrams to Mr. Platt on this subject.

There is no provision of the Federal Reserve Act so unpopular with the member banks as the question of reserves, and I think it unfortunate for the Board to render it any more unpopular by adopting regulations more drastic than those now in force. There may be a few member banks that are seeking to side step their responsibilities, and they should be dealt with individually by the executive officers of the Federal Reserve Banks rather than subjecting all of the member banks to undue penalties.

With best regards,

Yours truly,

(Signed) J. F. Bruton.

JFB/P

(COPY)

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THE PHILADELPHIA-GIRARD NATIONAL BANK.

Office of the
Chairman of the Board

X-4972-f

September 29, 1927.

Mr. Edmund Platt, Acting Governor,
Federal Reserve Board,
Washington, D.C.

Dear Mr. Platt:-

Mr. Lichtenstein's letter of September 24th, enclosing proposed draft of new regulations for figuring the reserves of member banks, together with copy of Mr. Lichtenstein's letter to you of the same date, is received. I have received today Mr. Lichtenstein's wire asking me to send as soon as possible any suggestions or comments.

The proposed regulations reclassify into two divisions,-the banks in central reserve and reserve cities, and provide that member banks in cities having a Federal Reserve Bank or a branch of a Federal Reserve Bank shall compute average reserves upon a semi-weekly basis instead of a weekly basis as at present. The basis of penalty for deficient reserves in all classes of member banks is provided also and there are two additional provisions at the end, which would seem desirable.

It has seemed to me that the present weekly basis of averaging reserves by member banks in the cities having a Federal Reserve Bank or a branch of the Federal Reserve Bank has worked very satisfactorily and I believe the change is quite undesirable. It is possible that there have been abuses in some quarters, but my feeling is that the abuses should be controlled and that all member banks should not be penalized by having greater and inelastic restrictions imposed upon them. The deposits of a bank have certain fluctuations and the rise and fall very generally occur on the same days each week. A bank officer handling a reserve becomes accustomed to these fluctuations and can anticipate them to some extent; not always, of course. If the reserve period is divided into semi-weekly periods, the conditions will become quite inelastic, necessitating more frequent borrowings and payments at Federal Reserve Banks, and thereby multiplying work for all concerned. Deposits of a bank must necessarily fluctuate and reserve balances must provide the payment of the deposits withdrawn. Under the present system, a deficient reserve may be repaired by collection of maturing bills or calling of demand loans. If a bank is on a weekly reserve basis there is greater elasticity in meeting the condition and, as stated previously, a semi-weekly reserve period makes for an inelastic condition.

Mr. Wetmore suggests in lieu of the proposed semi-weekly period a penalty when deficient reserves exceed 10%. His principle is sound I think, but the percentage of deficiency is too low, in my opinion.

I should prefer to have the present weekly reserve basis continued and have abuses controlled.

The proposed increase in the rate to be charged on deficient reserves, the right to the Federal Reserve Board to waive the penalty and the plan of dealing with the chronic offenders, I believe, are sound.

Very truly yours,

(Signed) L. L. Rue.

C.C. to Mr.F. O. Wetmore, Continental & Commercial National Bank, Chicago.

(COPY)

T E L E G R A M

X-4972-g

Cleveland, Ohio.
September 30th, 1927.

Edmund Platt, Acting Governor,
Federal Reserve Board,
Washington, D.C.

Have been giving some thought to proposed regulation D Section Four with reference to change in figuring reserve requirements. Stop. Proposed change will have an unstable effect on money, requiring banks to call loans oftener, require banks in large centers to do additional work and adjust their balances oftener than those in smaller cities. Stop Believe chronic offenders can be handled by regulation exacting penalties that do not disturb the methods of the entire membership on account of actions of a small minority.

Harris Creech.

(COPY)

X-4972-h

THE CLEVELAND TRUST CO.
Cleveland, Ohio.

HARRIS CREECH
President.

September 30th, 1927.

Dear Mr. Platt:-

As stated in the enclosed copy of telegram, I have been giving a little thought to the proposed change in figuring reserves and unless there is a large number of banks that are chronic offenders, it seems to me that regulation by the Federal Reserve Board would be preferable in exacting penalties of the chronic offenders than to change the method of figuring reserves for the entire system. The changes which are proposed make it more difficult for those banks that endeavor to live up to the rules of the Federal Reserve Board, and I would not favor the changes unless in your opinion, you feel it is absolutely necessary to maintain required reserves.

Very truly yours,

(Signed) Harris Creech

Edmund Platt, Acting Governor,
Federal Reserve Board,
Washington, D.C.

(COPY)

Walter Lichtenstein
Executive Secretary.

X-4972-i

221

THE FIRST NATIONAL BANK
OF CHICAGO

September 24, 1927.

Dear Mr. Platt:

In Mr. Wetmore's absence, I beg to confirm the following wire sent to you by Mr. Wetmore before leaving the office last night.

> "Referring proposed regulation D section four in my opinion any shortening of present period will lead to sharp expansions and contractions of loanable and reserve funds as any two periods into which week might be divided are quite unlikely to run uniformly Stop As this is apparently a regulatory measure covering practices which are the exception and not the rule additional penalties could be imposed upon offenders in some other way Stop Suggest leaving periods for figuring reserves as they now exist but issue regulation to the effect that any member bank short on any day over ten per cent of its balance in Federal Reserve Bank for that day be assessed a penalty for that particular excess shortage the amount of penalty to be fixed by the Board in its discretion Stop This would not interfere with the weekly averaging of the reserves which should continue as before to be intact for the period with now existing penalties for deficiencies Stop I submit this for your consideration."

My understanding is that Mr. Wetmore feels that any shortening of the present period for figuring reserves will make it more difficult for the banks to estimate how much they will require of funds at the end of any given period. In order, therefore, to be on the safe side banks will be compelled at times unnecessarily to call in their loans. This will lead to more violent fluctuations than at present. Mr. Wetmore, of course, realizes that as always some banks have abused their privilege by having large shortages at the end of every day except at the close of the period. Nevertheless, it does not seem fair to penalize unnecessarily large numbers of banks which have tried their best to live up to the letter and spirit of the regulations of the Federal Reserve Board. It is with this situation in mind that Mr. Wetmore has made the suggestion contained in his wire.

As I have indicated, Mr. Wetmore is not in the office today and, therefore, this explanation of his views is to be regarded as an entirely unofficial expression from me.

Sincerely yours,

(Signed) Walter Lichtenstein

Mr. Edmund Platt, Acting Governor,
Federal Reserve Board,
Washington, D.C.

(COPY)

X-4972-j

T E L E G R A M

113 W W 167 NL
Chicago, Illinois Sept. 23, 1927.

Edmund Platt,
Acting Governor, Federal Reserve Board,
Washington, D.C.

Referring proposed regulation D section four in my opinion any shortening of present period will lead to sharp expansions and contractions of loanable and reserve funds as any two periods into which week might be divided are quite unlikely to run uniformly Stop As this is apparently a regulatory measure covering practices which are the exception and not the rule additional penalties could be imposed upon offenders in some other way Stop Suggest leaving periods for figuring reserves as they now exist but issue regulation to the effect that any member bank short on any day over ten percent of its balance in Federal Reserve Bank for that day be assessed a penalty for that particular excess shortage the amount of penalty to be fixed by the Board in its discretion Stop This would not interfere with the weekly averaging of the reserves which should continue as before to be intact for the period with now existing penalties for deficiencies Stop I submit this for your consideration.

F. O. Wetmore

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4975

October 18, 1927.

SUBJECT: Topic for Governors' Conference.

Dear Sir:

The Governor of the Federal Reserve Bank of Dallas has advised the Board that he has forwarded to the Governor of each other Federal reserve bank, copy of an opinion rendered by Counsel for that bank with respect to the effect upon the negotiability of bankers' acceptances of certain language contained in the standard form of endorsement placed thereon by the accepting banks to show the eligibility of the acceptances for rediscount at Federal reserve banks.

It is understood that this question will be given consideration at the forthcoming conference of Governors. The question has been referred to Counsel for the Federal Reserve Board and the Board has approved a recommendation made by him that the conference be requested to consider certain suggestions set out in a memorandum addressed to the Board, copy of which is enclosed herewith.

By direction of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

TO: GOVERNORS OF ALL F.R. BANKS EXCEPT DALLAS.

Federal Reserve Board

Negotiability of certain forms of bankers' acceptances.

Mr. Vest - Assistant Counsel.

The attached letter from Governor Talley of the Federal Reserve Bank of Dallas suggests that the language contained in the standard form of endorsement placed on bankers' acceptances by the accepting banks to show eligibility for rediscount in accordance with the Board's regulations may render such acceptances nonnegotiable. He encloses a copy of an opinion of Counsel for the Federal Reserve Bank of Dallas to the effect that the following language would render bankers' acceptances nonnegotiable:

> "This acceptance arises from the domestic storage of cotton and was secured at the time of acceptance by documents securing and conveying title to _____ bales and will remain so secured throughout the life of this acceptance."

This conclusion is based on two grounds (1) that the language used comes within the recent Texas decision of Lane Company v. Crum in which a trade acceptance was held to be nonnegotiable, and (2) that an acceptance having this language contains a promise to do an act in addition to the payment of money.

The following are the forms of certification of acceptance approved by the Board in 1921 for use on the several types of bankers' acceptances:

"Domestic Shipments: 'At time of acceptance, this bill was accompanied by shipping documents evidencing the domestic shipment of (name of commodity) from (point of shipment) to (place of destination).

(Name of Acceptor)'

"Import and Export Transactions:

'This acceptance arises out of a transaction involving (importation)(exportation) of (name of commodity) from (point of shipment) to (place of destination).

(Name of Acceptor)'

"Warehouse Secured Credit:

'This bill was secured at the time of acceptance by independent warehouse, terminal, or other similar receipt conveying security title to (name of readily marketable staple) stored in (country where stored) and the acceptor will remain secured throughout the life of the bill.

(Name of Acceptor)' "

It will be noted that the last two of the certificates above quoted contain language substantially the same as certain parts of the endorsement considered by Counsel for the Dallas Federal Reserve Bank to render acceptances nonnegotiable.

In the case of Lane Company v. Crum, the Supreme Court of Texas held that the following language in a trade acceptance rendered it nonnegotiable:

> "The obligation of the acceptor hereof arises out of the purchase of goods from the drawer, maturity being in conformity with the original terms of purchase."

In order to meet this decision the Federal Reserve Board recommended a change in the standard form of trade acceptance so as to eliminate therefrom the clause quoted and to insert in lieu thereof the following: "The transaction which gives rise to this instrument is the purchase of goods by the acceptor from the drawer."

I can see no essential difference between this provision recommended to overcome the decision in Lane Company v. Crum, and the statement "This acceptance arises from the domestic storage of cotton * * *," which was considered by Counsel for the Federal Reserve Bank of Dallas to come within this Texas decision. If his conclusion is correct, the new provision of the standard form of trade acceptance would seem to be ineffective to accomplish the desired result.

In my opinion, however, the language, "This acceptance arises from the domestic storage of cotton * * *" does not come within the Lane Company decision and does not render an acceptance nonnegotiable. It will be observed that the language just quoted does not contain the words "the obligation of the acceptor" found in the language considered in the Lane Company case. The opinion in that case indicates that these words were the basis of the decision, on the theory that the obligation of the acceptor arose not from the instrument but from collateral transactions. The absence of these words in my opinion takes the language out of the Lane Company case. The Negotiable Instruments Act, which has been uniformly adopted, expressly provides that a negotiable instrument may contain a statement of the transaction which gives rise to the instrument. It would seem that the clause, "This acceptance arises from the domestic storage of cotton * * *" as well as the new provision in the standard form of trade acceptance comes clearly within this provision of the Negotiable Instruments Act. The same may be said also of the form of certificate for acceptances arising out of import and export transactions approved by the Board in 1921 and quoted above.

The second reason for the conclusion reached by Counsel for the Federal Reserve Bank of Dallas is that the provision that the acceptance "will remain so secured throughout the life of this acceptance" is a promise to do an act in addition to the payment of money. Similar language is found in the form of certificate of acceptance approved by the Board in 1921 for acceptances covering the storage of readily marketable staples.

Although the Negotiable Instruments Act provides "An instrument which contains an order or promise to do an act in addition to the payment of money is not negotiable", the better rule seems to be that an additional promise which does not impair the obligation to pay the certain amount of money, but which tends to facilitate rather than to impede its collection, does not affect negotiability. 8 Corpus Juris, page 126. The same rule is stated in substantially the same language in 1 Daniel on Negotiable Instruments, page 80. Thus, in the case of Farmer v. First National Bank, (Ark.) 115 S.W. 1141, a note containing a stipulation by the maker to have the property securing the same insured was held to be nevertheless negotiable. The Court said:

> "Here the recitals of the fact of the mortgage as a collateral to the note and of the promise to have the property insured as an additional security do not in any wise impair the obligation to pay the certain amount in money named. It does not tend to impede, but rather to facilitate, its collection. The promise to pay a certain sum of money at a certain time remains absolute. The collateral contract does not affect the principal obligation except to aid in its fulfillment. The note therefore remains a 'courier without luggage.' "

In the case of Cherry v. Sprague, (Mass.) 72 N.E. 457, the Court said "It is settled that the incorporation into an instrument which contains an unconditional promise to pay a definite sum of money of additional stipulations does not of itself necessarily deprive the instrument of the character of a promissory note * * * If the additional stipulation relates to the manner in which the unconditional promise to pay a definite sum may be enforced, and does not change the promise from one to pay that sum absolutely and at all events, or change the general nature of the whole contract, the instrument is a promissory note, notwithstanding additional stipulations relating to the manner of enforcement of the promise if it shall be broken."

There are one or two cases which at first glance appear to be contrary to the authorities above cited on this question. Thus, in the case of Strickland v. National Salt Company, (N J.) 81 Atl. 828, a provision by which the maker promised to keep the property securing the instrument FREE from encumbrances and of the same value as when it was pledged was held to be a promise to do an act in addition to the payment of money and, therefore, the instrument was considered nonnegotiable. In that case, however, the maker of the instrument had agreed to do certain other things besides keeping the property free from encumbrances, and there were other grounds which the court also considered in reaching the conclusion that the instrument was nonnegotiable. In the case of Bright v. Offield, (Wash.) 143 Pac. 159, it was held that a provision to the effect that if the maker should permit the taxes on mortgaged property to become delinquent the whole amount of the instrument should become at once due and payable, was in effect a promise to pay taxes on the mortgaged property, thus making the amount of the note uncertain because of the uncertainty as to the amount of taxes, and the note nonnegotiable. The court reached this conclusion, however, primarily on the ground that this provision was in

effect
/a conditional promise to pay an uncertain sum of money.

In the case under consideration the acceptor of the bill agrees to pay a certain sum of money in accordance with the terms of the bill. In addition he states that he will remain secured throughout the life of the bill. This provision, however, does not in any way render conditional his promise to pay or render the amount to be paid uncertain. It does not impede the collection of the instrument in any way; if anything it facilitates its collection. Applying the above authorities to the present case, therefore, it would seem that under the better rule a provision to the effect that the acceptance or the acceptor will remain secured throughout the life of the acceptance would not affect the negotiability of the instrument. In my opinion this is the conclusion which the courts of most jurisdictions would reach on this question, although there may be some doubt as to whether this view would be taken in all jurisdictions.

CONCLUSIONS.

My conclusions may be summarized briefly as follows: The forms of acceptance approved by the Board in 1921 for acceptances arising out of domestic shipments and for acceptances arising out of import and export transactions contain no provisions which would render the acceptances nonnegotiable. The form approved for use in case of acceptances secured by readily marketable staples contains no provision which under the better rule, would render the acceptances nonnegotiable, but inasmuch as it contains the clause "the acceptor will remain secured throughout the life of the bill", there may be a few jurisdictions in which such acceptances would not be considered negotiable.

I understand from Governor Talley's letter that this matter is to be on the program for the forthcoming Governors' Conference, presumably to give consideration to some plan whereby such parts of the certificates which have been approved by the Board for use in accepting bills as make the instruments nonnegotiable may be eliminated. If desired, the possible effect on negotiability of the clause "the acceptor will remain secured throughout the life of the bill" may be avoided by having the accepting bank place the agreement to remain secured throughout the life of the bill in an instrument separate and apart from the acceptance itself and submit the same to the member bank which discounts the acceptances or directly to the Federal reserve bank, only in case of rediscount of the acceptance by the Federal reserve bank. It is doubtful, however, whether this course is desirable as a practical matter, and in view of the conclusion above reached that the clause mentioned would render an instrument nonnegotiable in few jurisdictions, if indeed, in any, it may be advisable to leave the forms of certification of acceptances just as they have been since 1921.

Respectfully,

George B. Vest
Assistant Counsel.

GBV-sad

I believe that on principle Mr. Vest's legal conclusions are sound; but I fear that, in view of the decision in Lane Company v. Crum, some of the courts might hold that acceptances bearing the second and third certificates are non-negotiable. In my opinion, the decision in Lane Company v. Crum was wrong; but, nevertheless, it establishes the law in the State of Texas and may be followed in other jurisdictions. The same court which decided the Crum case incorrectly, and any courts which might be inclined to follow the decision in the Crum case, would be likely to hold that such acceptances are non-negotiable.

It is highly important that there should be no question in any jurisdiction as to the negotiability of the standard forms of acceptances. I believe, therefore, that, as a practical matter, it would be desirable to change the second and third certificates quoted above in such a way as to eliminate all possible doubt of the negotiability of acceptances containing such certifications. No doubt has been cast upon the negotiability of acceptances bearing the first certificate quoted above.

RECOMMENDATIONS:

I respectfully recommend, therefore, that the Governors' Conference be requested to consider the following suggestions:

1. That no change be made in the form of certificate to be used on acceptances covering domestic shipments.

2. That the form of certificate to be used on acceptances covering import and export transactions be changed to read as follows:

"The transaction which gives rise to this instrument is the (importation) of (name of commodity) from (exportation)

(point of shipment) to (place of destination).

_____
Name of Acceptor."

3. That the certificate be eliminated entirely from the faces of acceptances secured by warehouse, terminal or other similar receipts; and that the following form of certificate be printed on a separate piece of paper to accompany the acceptance:

> "This certifies that a certain bill drawn by (Name of drawer) on the undersigned for $_____ dated _____ and accepted by the undersigned, was secured at the time of acceptance by independent warehouse, terminal or other similar receipt conveying security title to (name of readily marketable staple) stored in (country where stored) and that the acceptor will remain secured throughout the life of the bill.
>
> _____
> Name of Acceptor."

This may be less convenient than a certificate on the face of the acceptance but is much safer and is no more cumbersome than an acceptance with a bill of lading or warehouse receipt attached.

I also recommend that a copy of this memorandum and the attached correspondence be sent to all Federal reserve banks for their information in connection with the discussion of this topic at the Governors' Conference.

Respectfully,

Walter Wyatt,
General Counsel.

WW WLH 10-8-27

FEDERAL RESERVE BOARD

230

WASHINGTON

X-4976

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 19, 1927.

SUBJECT: Topic for Governors' Conference.

Dear Sir:

The right of a Federal reserve bank to charge to the reserve account of an insolvent member bank checks received by the Federal reserve bank for collection and transmitted to the member bank for payment prior to insolvency, has been questioned by the receiver of an insolvent national bank as the result of such a charge made by the Federal Reserve Bank of Richmond. The matter has been the subject of correspondence between the Federal Reserve Bank of Richmond and Counsel for the Federal Reserve Board, who has also taken it up with Honorable Newton D. Baker.

The Board has voted to refer the subject to the forthcoming Conference of Governors and accordingly there is enclosed herewith copy of a memorandum relative thereto, addressed to the Board by its General Counsel, together with copies of various communications on the subject.

By direction of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

TO GOVERNORS OF ALL F. R. BANKS

COPY

X-4976-a

Date -October 8, 1927.

To - The Federal Reserve Board

From - Mr. Wyatt - General Counsel

Subject: Right of Federal Reserve Bank to charge to the account of an insolvent member bank checks received by the Federal Reserve Bank for collection and transmitted to such member bank for payment prior to insolvency.

I respectfully submit herewith for the Board's information a copy of certain correspondence between this office and Mr. M.G. Wallace, Counsel to the Federal Reserve Bank of Richmond, on the above subject. I am calling this to the Board's attention because of the fact that it involves a controversy which is about to be made the basis of a test suit involving legal questions of interest to the entire Federal Reserve System, and it has occurred to me that it may be advisable to make this a topic for discussion at the Governors' Conference.

The facts may be summarized briefly, as follows: The Federal Reserve Bank of Richmond received certain checks for collection pursuant to the terms of Regulation J and forwarded them to the drawee bank for payment. After such checks had been received by the drawee bank and charged to the drawers' accounts, but before the time for payment stipulated in the time schedule had elapsed, the drawee bank failed and a receiver was appointed. Subsequent to the insolvency of the drawee bank the Federal Reserve Bank of Richmond charged the amount of such checks to the reserve account of the drawee bank and credited same to the banks from which they had been received. Subsequently, the receiver questioned the right of the Federal Reserve Bank to charge such checks to the insolvent bank's reserve account and demanded that the Federal Reserve Bank account to him for the reserve balance of the insolvent bank without deducting the amount of such checks. The Federal Reserve Bank thereupon notified the banks from which the checks were received of the position taken by the receiver and advised such banks that if the Federal Reserve Bank was required to refund the amount of such checks to the receiver, it would charge same to the account of the banks from which the checks had been received. Some of the banks from which these checks had been received then notified the Federal Reserve Bank that they would not permit the Federal Reserve Bank to charge such checks back to their accounts, but would hold the Federal Reserve Bank responsible for the amounts thereof on the ground that the checks had been collected.

The receiver takes the position that, inasmuch as the Federal Reserve Bank was acting merely as agent in collecting such checks, it had no right to offset the amount thereof against the reserve account of the drawee bank. Purely as a question of offset, this position is sound, because the accounts were not mutual and no offset is permissible under such circumstances.

The Federal Reserve Bank, however, relies upon the provisions of its check collection circular wherein it reserves the right "to charge a cash letter to the reserve account of the member bank at any time when in any particular case it deems it necessary to do so." This provision was inserted in the check collection circular of the Federal Reserve Bank of Richmond pursuant to the authority contained in Section V(4) of Regulation J, which provides that:

> "Any Federal reserve bank may reserve the right in its check collection circular to charge such items to the reserve account or clearing account of any such bank at any time when in any particular case the Federal reserve bank deems it necessary to do so."

The legality of the above quoted provision of the Board's regulations and of the Federal Reserve Bank's check collection circular has never been tested in the courts and is somewhat doubtful. I seriously doubt that the Federal Reserve Board or the Federal Reserve Bank has the right to compel a member bank to pay a check which the Federal Reserve Bank does not own but is handling merely as agent by permitting same to be charged to the drawee bank's account, unless the drawee bank consents to such charge. This provision was inserted in Regulation J on the theory that, by forwarding checks to Federal Reserve Banks for collection under the terms of Regulation J, and by remitting to the Federal Reserve Banks for checks under the terms of Regulation J, the member banks would be held to have acquiesced in the terms of that regulation and to have authorized the Federal Reserve Banks to charge such checks to their reserve accounts. Such authorizations would be continuous; but it may be argued with much force that the authority thus given would be revoked automatically upon the insolvency of the drawee bank and that, therefore, the Federal Reserve Bank has no right to charge checks to the drawee bank's account after the drawee bank becomes insolvent.

If the court should merely rule that the Federal Reserve Bank has no right to charge a check to the reserve account of an insolvent member bank, I do not believe the decision would do much harm; but there is a danger that the court might go much further by way of dictum and say that the Federal Reserve Bank has no right under any circumstances to charge a check to the reserve account of the drawee bank unless the drawee bank authorizes the charge. While such a dictum would not be absolutely binding upon the Federal Reserve Bank, it would raise such serious doubts as to the legality of the above quoted provision of the Board's Regulations and of the check collection circulars as to greatly impair, if not utterly destroy, their usefulness, and I think this would be quite unfortunate.

In view of all these circumstances, I believe it would be advisable to place this subject on the program for discussion at the next Governors' Conference, in order that the Governors might discuss with Mr. Seay the advisability of making a test suit on this question and might also discuss the practical problems involved in connection with the charging of checks to the accounts of drawee banks.

Respectfully,

Walter Wyatt
General Counsel.

Papers attached

WW OMC

October 18, 1927.

Mr. George J. Seay, Governor,
Federal Reserve Bank,
Richmond, Virginia.

Dear Governor Seay:

I have received your letter of October 14th with reference to the controversy between the Federal Reserve Bank of Richmond and the Receiver of the Farmers & Merchants Bank of Lake City and have already submitted your letter to the Federal Reserve Board and called it personally to the attention of Governor Young.

You state that you understand my view to be that the question involved in this case will only become a System matter in case the Judge should introduce some dictum not necessary to a decision. That is not exactly my view. Inasmuch as the point of law which will actually be decided in this case will necessarily affect all the Federal reserve banks, I think the case is inherently one of such a nature that it should be called to the attention of all Federal reserve banks, and that the Governors' Conference should have an opportunity to decide whether or not it desires to have the case made a System case. I feel, however, that the right to charge checks to the drawee bank's account subsequent to insolvency is relatively unimportant and that it would not do much harm if that question is decided adversely to the Federal reserve banks. On the other hand, I feel that the question of the right to charge checks to the drawee bank's account prior to insolvency, which might be affected by a dictum in this case, is of much more importance and that it would be unfortunate if in deciding this case the Court should indulge in a dictum which would raise doubts as to the right of a Federal reserve bank to charge checks to the account of the drawee bank prior to insolvency.

I am not inclined to recommend that this case be settled out of court or that the Federal Reserve Bank of Richmond surrender its rights in the premises. The Office of the Comptroller of the Currency apparently is determined to have this question settled by a test suit; and, so far as I have been able to ascertain, the case which you have pending is free of any complications and should make a good test case. The only possible advantage to be derived from the settlement of this case out of court and the consequent surrender by the Federal reserve banks of their right to charge checks to the

drawee bank subsequent to insolvency would be to avoid the possibility of a dictum casting a doubt upon their right to charge checks to the drawee bank's account prior to insolvency; and I doubt that this advantage is sufficient to justify all the Federal reserve banks in surrendering what many of them consider an important legal right and in asking the Federal Reserve Bank of Richmond to suffer a serious financial loss. I feel, therefore, that it is just as well to try the case you have pending; but I consider it my duty to call it to the attention of the Federal Reserve Board and the other Federal reserve banks, because it is in the nature of a test case on a question of law which will affect all of the Federal reserve banks.

I sincerely trust that this letter will serve to make my position entirely clear and that you and Mr. Wallace will agree that I have done the right thing in recommending to the Board that this case be put on the program for discussion at the Governors' Conference. I agree with you that the questions of law could be discussed more appropriately by the Counsel of the various Federal reserve banks than by the Governors; but there are certain practical questions which I think should be considered by the Governors. I believe that placing the subject on the program for discussion at the Governors' Conference will serve a double purpose, since the Governors can discuss the practical questions involved and undoubtedly each Governor will ask his own Counsel for an opinion on the question of law.

If the Governors decide to have this question considered in more detail by the Counsel to the Federal reserve banks I shall be very glad, with the approval of the Federal Reserve Board, to arrange for a joint conference of Counsel of all the Federal reserve banks to discuss this and other legal matters of System interest. We have held two such conferences heretofore and it seems to be the unanimous opinion of Counsel that they have been very helpful.

With kindest personal regards, I am

Sincerely yours,

Walter Wyatt,
General Counsel.

WW sad

COPY

X-4976-c

FEDERAL RESERVE BANK OF RICHMOND.

October 14, 1927.

Mr. Walter Wyatt, General Counsel,
Federal Reserve Board,
Washington, D. C.

Dear Mr. Wyatt:

Mr. Wallace has shown me your letter to him of October 8 relating to a controversy between this bank and the receiver of the Farmers & Merchants Bank of Lake City, accompanied by a copy of your letter to the Federal Reserve Board, in which you recommend that the matter be placed on the program for discussion at the next Governors' Conference.

I have reviewed the case and all of the correspondence which has passed between you and our Counsel, Mr. Wallace, and it seems to me that the subject is entitled to much more consideration, in detail, than it is usually practicable to give at these conferences of governors. As a rule, a matter of this kind would, I think, be referred by each governor to the counsel of his bank for study and opinion. In order to get the merits of the case fully before the conference, a statement of all the facts should be presented, and I think it would be desirable, if not necessary, to read at length from the correspondence which has passed between you and our Counsel, in order to develop the niceties of the case.

There seems to be, in some measure, differences of opinion between yourself and Mr. Newton D. Baker as to whether this case is likely to become a System matter. As I understand your point of view, it will only become a System matter in case the Judge should introduce some dictum not necessary to a decision in the case, and while no one can say how great that danger may be, you have fear of it and it must be regarded as a possibility. It hardly seems to me that the danger of that possibility would justify this bank in withdrawing from the case and assuming the loss which would ensue. The amount involved in the case of the Lake City bank is covered by two remittances, aggregating about $34,000; the amount involved in a similar case with respect to the Fayetteville bank is, I believe, in the neighborhood of $20,000, making the total sum involved approximately $54,000. As an offset, we would receive the dividends paid by the receivers of the respective banks, which in the case of the Lake City bank we are led to believe will be very substantial, but which in the case of the Fayetteville bank cannot even be approximated at the present time.

The Conference of Governors, it seems to me, would be likely to take one of only two courses: either recommend that the Federal Reserve Bank of Richmond withdraw from its position and assume the loss; or recommend that the matter be referred to the counsel of the several banks for an opinion as to whether the possible danger to the System would seem to make it advisable for the Richmond bank to withdraw. We should hardly be willing to take the first course upon the suggestion of the Conference because, in the nature of the case, we believe it could only be superficially considered in a general discussion within the time available; but we might be willing to follow the recommendation of the counsel of the several banks should there be any uniform concurrence of opinion among them, and if the other banks adopted the opinion of counsel.

In one of Mr. Wallace's letters to you, he suggested that a statement of the facts be submitted to the counsel of the several banks for consideration and expression of opinion. This course, in my judgment, would be preferable to discussion at the Conference. Whether Mr. Baker had reviewed the entire case when he wrote the letter to you on June 18, I do not know, but if not the same matter submitted to the counsel of the banks might, also, be submitted to Mr. Baker, should the Board think it advisable. In considering the effect of an embarrassing court decision upon the System, it is well to bear in mind that only two of the Federal Reserve Banks, Philadelphia and Richmond, pursue the deferred charge practice; the rest have the remittance plan.

I am writing this letter directly to you rather than to the Board because this course seems to me to offer the most convenient manner of placing the matter before the Board, and I suggest that you bring the letter to the attention of the Board along with your communication to the Board of October 8.

Very truly yours,

(Sgd.) Geo. J. Seay,
Governor.

GJS CCP

October 8, 1927.

Mr. M. G. Wallace, Counsel,
Federal Reserve Bank of Richmond,
Richmond, Virginia.

Dear Mr. Wallace:

I have received your letter of August 20th with further reference to the controversy between your bank and the receiver of the Farmers & Merchants National Bank of Lake City, but have not replied more promptly because I have been absent from the office much of the time and have been exceedingly busy during the time I have been in the office.

After reading your letter I can realize that you find yourself "between the devil and the deep blue sea" and that you are practically forced to try a law suit on this question either with the receiver or with the member banks from which you received the checks in question, unless the Federal Reserve Bank of Richmond wishes to settle the case and absorb the necessary financial loss which I judge the bank is unwilling to do.

In view of the fact that the legal question involved in this case will affect all of the Federal reserve banks, I am calling this matter to the attention of the Federal Reserve Board with the suggestion that it put the subject on the program for discussion at the forthcoming Governors' Conference. If the Board adopts this suggestion, it will give the Governors an opportunity to discuss the matter from a System standpoint and to consider the practical as well as the legal questions involved.

With all best wishes, I am,

Cordially yours,

Walter Wyatt,
General Counsel.

P.S. For your information I enclose a copy of the memorandum which I am submitting to the Board.

COPY

X-4976-e

FEDERAL RESERVE BANK OF
RICHMOND

August 20, 1927.

Federal Reserve Board,
Washington, D. C.

ATTENTION OF MR. WALTER WYATT General Counsel.

My dear Mr. Wyatt:

I have your letter of August 17th with reference to the controversy between this bank and the Receiver of the Farmers & Merchants National Bank of Lake City.

I have, of course, considered your letter carefully, and have discussed it with the officers of this bank. I am rather inclined to agree with Mr. Baker in thinking that the question involved in this controversy is so remote from the question involved in the Atlanta district that there is little chance that a decision in one case will have any bearing upon the other, but, of course, none ofus can foresee what some Judge may undertake to say by way of obiter dicta.

In my case there could be no doubt of our right to charge the reserve account of the member bank if it remained solvent. The sole question involved would be whether or not the insolvency of the member bank revokes the authority which it has given to us to charge its account, and, if so, whether or not the revocation operates with respect to charge which could have been made before the closing of the bank, but in fact were not so made. In the Atlanta case the question is whether or not the member bank may evade the spirit of the Federal Reserve Act by refusing to pay checks presented through the Federal Reserve Bank if the drawer has directed that such checks shall not be paid to the Federal Reserve Bank.

In any event, I see little chance of our avoiding a settlement by litigation of the point in controversy. As you know, our claim involves two letters. The first of these letters was sent to the Farmers & Merchants National Bank of Lake City on October 7th, and under our time schedule was chargeable to its reserve account on Monday, October 11th. The checks in the letter were cancelled on October 8th. The bank was closed on Saturday, October 9th. On October 11th the reserve account was adequate to meet this letter, and we accordingly charged the letter to the reserve account and credited the banks from which the checks had been received.

We sent to the Receiver a statement showing that this letter had been charged to the reserve account, and no objection was made, and indeed the Receiver treated the charge as proper until some time in May when a demand was made upon us for the amount of this letter. As soon as the demand was made, we notified the member banks concerned that if the contention of the Receiver was sustained, we would charge them with the amount of the checks which had been contained in this letter. Several of the member banks notified us that they would not stand the charge, but would litigate the question with us regardless of the result of the litigation between ourselves and the Receiver. I feel sure that if we undertook to charge them with the amounts of their checks in this letter they would litigate the question. Of course, we could accede to the demand of the Receiver and not charge our member banks, taking the loss ourselves, but even if we did this, I think the same question would arise in future cases, and with respect to the second letter of the Farmers & Merchants National Bank of Lake City.

The second letter was sent to the Farmers & Merchants National Bank of Lake City on October 8th, and the checks in it were charged to the accounts of the drawers on October 9th before the closing of the bank. This letter was in ordinary course chargeable to the failed bank on October 12th, but after charging the letter of October 7th, we had a balance amounting to only approximately $7,000.00, and the letter was approximately $20,000.00. We charged back the entire amount of the checks contained in this second letter and hold the balance in order that I might endeavor to decide as to whether or not it should be distributed as a part payment on account of the letter or not. Several member banks wrote to us asking for information as to the amount of the reserve balance. On being notified of the situation they claimed that the reserve balance should be applied to the cash letter, and notified us that they would hold us liable if we surrendered it to the Receiver. The amount of checks received from the banks which took this position is sufficient to justify them in the effort to test their rights, and if we abandoned our position in our controversy with the Receiver, I feel sure that some of these banks would endeavor to press the question to a settlement.

Since this question has been under discussion another member bank- that is to say the National Bank of Fayetteville has been closed. In the case of the latter bank there are two letters which were handled by it just before its failure, and which had not been actually charged to its reserve account on the day of the failure. We notified the member banks concerned that the Comptroller disputed our right to charge these cash letters to the reserve account, and that consequently we credited them with the amount of their checks upon the condition that if the Comptroller's position was sustained we would be compelled to charge back the amount of their checks.

If we acceded to the contention of the Receiver in the case of the Farmers & Merchants National Bank of Lake City we would be compelled to accede to it in the case of the National Bank of Fayetteville, and in all subsequent cases, and I feel reasonably certain that sooner or later a member bank would force a decision of the question.

In the Lake City case we had no rediscounts. In the Fayetteville case we have quite a large line of rediscounts, and if we undertook to charge back cash letters upon the ground that they were unpaid, and to apply the reserve balance to the rediscounts, it would create an impression that we are endeavoring to protect ourselves at the expense of member banks, and this attitude would, I think, create a most unfavorable impression upon the member banks. For the reasons stated, the officers of this bank and myself feel that we are almost compelled to settle the question which has been raised, but, of course, we would consider carefully any suggestions which other Federal Reserve Banks, or their Counsel wished to make. If you think that the matter is of sufficient importance to justify requesting the Counsel for other banks to meet for a conference, I should, of course, be delighted to have such a conference, but it seems to me that the question is scarcely broad enough to justify the trouble and expense which the conference would entail, and that perhaps it might be sufficient to send a copy of the statement of facts to each of the other Counsel and invite their criticism.

I am very glad to say that I am just back from a very enjoyable vacation at Virginia Beach, and I hope that you will soon be off upon yours, and will come back feeling as fresh as I do. I have never quite given up hope that you and Mrs. Wyatt will find your way to Richmond some day.

The time for applying the certiorari in the case of Craven Chemical Company v. Federal Reserve Bank of Richmond has expired, so I imagine that my opponents never thought of raising the jurisdictional question which we discussed in our former correspondence.

Very truly yours,

M.G. Wallace,
Counsel.

COPY

X-4976-f

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August 17, 1927.

Mr. M.G. Wallace, Counsel,
Federal Reserve Bank,
Richmond, Virginia.

My dear Mr. Wallace:

Referring to your letter of June 14th with regard to the claim made against your bank by the receiver of the Farmers and Merchants National Bank of Lake City, I enclose for your information a letter from Mr. Baker expressing his views as to the effect of such litigation on the test case we have been expecting on the legality of the action of certain Alabama banks in stamping their checks "not payable through the Federal Reserve Bank of Atlanta."

I disagree with Mr. Baker's views that your case is not one of System importance, because I fear that, in deciding the real matter at issue in your case, the Court is very likely to go so far as to say that a Federal reserve bank has no right under any circumstances to charge to the accounts of drawee banks checks which it does not own but which it is merely handling under Regulation J as the agent of the banks from which they were received. Such a ruling would be a serious blow to Regulation J and to the present check collection system, and I should regret very much to see it.

I have discussed with counsel of several of the other Federal reserve banks the questions involved in this case and all of those with whom I have discussed the question expressed serious doubt as to the right of a Federal reserve bank to charge to the account of an insolvent bank checks which are not owned absolutely by the Federal reserve bank itself. Heretofore I have refrained from expressing any views on this matter, but I now feel that I should tell you that I personally believe that the Comptroller's Office is right and that you are wrong in this particular controversy, and I fear that if you try a test suit you will lose it. The loss of such a suit would not disturb me very much, unless the Court should rule, or say by way of dictum, that the Federal reserve bank has no right under any circumstances to charge to the account of the drawee bank a check which it does not own in its own right but which it merely handles as the agent of another bank from which such check was received. In view of this danger, I sincerely hope that you will reconsider the advisability of trying such a test case and will advise me of your further views in the premises.

You will understand, of course, that this is merely an

expression of my own personal views and not the views of the Federal Reserve Board. Moreover, I hope you will understand very clearly that I have no desire to interfere with your handling of any litigation for the Federal Reserve Bank of Richmond. I merely suggest the danger pointed out above, in order that you may weigh the matter and reach a conclusion in your own mind as to whether it would be better for your bank to yield to the Comptroller of the Currency in this particular instance rather than to jeopardize the interests of the entire Federal Reserve System by going to suit on a doubtful question which may involve the legality of a very important provision of Regulation J. If you have any doubts about the matter, would it not be better to discuss this question at a conference of Counsel to all Federal reserve banks before testing such a question in the courts?

I sincerely hope that you have not been as busy as I have been this summer and that you have been able to take a little vacation. I am beginning to feel the need of one very badly and hope to go away from the office in a few days.

With all best wishes, I am,

Cordially yours,

Walter Wyatt,
General Counsel.

WW MD

COPY

X-4976-g

244

BAKER, HOSTETLER & SIDLO
COUNSELLORS AT LAW
UNION TRUST BUILDING
CLEVELAND

June 18, 1927.

Dear Mr. Wyatt:

After several days of absence I return this morning and find your letter of June ninth, with the correspondence sent by Mr. M. G. Wallace of the Federal Reserve Bank of Richmond covering transactions with the Farmers and Merchants National Bank of Lake City.

In view of the fact that there does not seem to be a present means of raising our controversy in the Atlanta District, I am inclined to believe that Mr. Wallace should get up his test case as soon as he can and get the matter presented to a Federal Court for decision. Of course this does raise some question as to the right of Federal Reserve banks generally to make charges against the reserve balances of members, but it is a special case, and an adverse decision on the facts in these two instances would not necessarily conclude Federal Reserve banks from making charges against reserve balances of solvent banks or of banks as to which they had no notice of suspension.

In presenting this matter I hope Mr. Wallace will do whatever he can to narrow the issue to the facts of his case, so that the Court may not by inadvertence express an opinion which would be held to conclude the larger question. That is to say, if the fact of the bank's suspension and the notice of it should be held by the Court to terminate the right of the Federal Reserve bank to charge the reserve balance, I would be sorry to have the Court go on and express obiter any doubt as to the right to make such changes under other conditions.

In view of the facts of these cases I am inclined to agree with Mr. Wallace that this is not a system matter, particularly since the controversy is between the Federal Reserve bank and the Comptroller's office.

Cordially yours,
(Signed) Newton D. Baker

Mr. Walter Wyatt,
Office of the General Counsel,
Federal Reserve Bank,
Washington, D.C.

COPY

X-4976-h 245

FEDERAL RESERVE BANK OF RICHMOND

June 14, 1927.

Federal Reserve Board,
Washington, D.C.

Attention of Mr. Walter Wyatt, General Counsel.

Dear Sirs:

I have your letter of June 9th, and am very glad to know that you have forwarded to Mr. Baker copies of my letters relating to the claim made against this bank by the Receiver of the Farmers & Merchants National Bank of Lake City.

The Receiver and myself are endeavoring to agree upon a statement of facts hoping to avoid any unnecessary expense, or delay, in the settlement of this question. I have prepared a draft of such a statement and forwarded it to the Receiver for his consideration. I enclose you a copy thinking that Mr. Baker may desire to consider it, and to suggest changes in it, or additions to it. Naturally, I should welcome any suggestions from him, or from yourself.

I read with much interest the correspondence between the Federal Reserve Board and the Federal Reserve Bank of Atlanta, and your opinion upon the subject.

I remain,

Very truly yours,

(Signed) M.G.Wallace
Counsel.

MGW:IB

COPY X-4976-i 246

FEDERAL RESERVE BANK OF RICHMOND,
RICHMOND, VA.

Gentlemen:

The undersigned member bank hereby acknowledges receipt of Circular No. 143, of the Federal Reserve Bank of Richmond, regarding the "Collection of Checks," effective July 1, 1926, setting forth the terms and conditions under which cash items as specified in the circular will be received for collection from the undersigned member by the Federal Reserve Bank of Richmond or by another Federal reserve bank for its account, which circular supersedes Circular No. 131 of June 15, 1923.

Yours very truly,

Farmers & Merchants Nat Bank
Bank

Lake City, S. C.
Location

2/9/26
Date

By R. H. McElrcen
President or Cashier (Official Signature)

COPY

X-4976-j

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June 14, 1927.

STATEMENT OF FACTS

1. The Federal Reserve Bank of Richmond is and was at all times hereinafter mentioned a banking corporation, duly organized under the Federal Reserve Act, having its chief office in Richmond, Virginia, and the district, or territory, assigned to it included the State of South Carolina.

2. The Farmers & Merchants National Bank of Lake City was at all times herein mentioned a National banking association duly organized under the National Bank Act, and had its office in Lake City, South Carolina, until it was closed and placed in liquidation as stated herein.

3. The Federal Reserve Bank of Richmond had for sometime prior to the closing of the Farmers & Merchants National Bank of Lake City received on deposit, or for collection, from banks which were members of the Federal Reserve System and other Federal Reserve Banks, checks drawn upon the Farmers & Merchants National Bank of Lake City. All of the said checks were received in accordance with, and subject to the terms of Regulation J, series of 1924, duly made and promulgated by the Federal Reserve Board, a copy of which is hereto attached and made a part hereof, and with circular No. 143 issued by the Federal Reserve Bank of Richmond, a copy of which is hereto attached, and made a part hereof, and with the time schedule issued by the Federal Reserve Bank of Richmond, a copy of which is hereto attached and made a part hereof.

4. A copy of the said circular No. 143 had been sent to the Farmers & Merchants National Bank of Lake City, and receipt thereof had been acknowledged by the Farmers & Merchants National Bank of Lake City before the times hereinafter mentioned, a copy of which acknowledgment is hereto attached, and made a part hereof.

5. It had been the practice of the Federal Reserve Bank of Richmond to send on each business day to the Farmers & Merchants National Bank of Lake

City checks drawn upon it, which had been received by the Federal Reserve Bank of Richmond as above stated, and when three business days had elapsed after the dispatch of a letter containing such checks to charge the amount thereof to the reserve account maintained by the Farmers & Merchants National Bank of Lake City with the Federal Reserve Bank of Richmond. If the Farmers & Merchants National Bank of Lake City was willing to accept and pay such checks it retained them and charged them to the accounts of the drawers. If it was unwilling to pay any, or all of such checks, it returned such of them as it was unwilling to pay after causing them to be duly protested, if protest was requested, and the amount of all checks so returned was credited to the account of the Farmers & Merchants National Bank of Lake City.

6. In the course of conducting business, as stated above, the Federal Reserve Bank of Richmond did not disclose to the Farmers & Merchants National Bank of Lake City the names of persons from whom the checks had been received except insofar as this knowledge could be obtained from endorsements appearing upon the checks. The amount of all checks sent to the Farmers & Merchants National Bank of Lake City was charged by the Federal Reserve Bank of Richmond to it, in accordance with the practice above set out, and credited by the Farmers & Merchants National Bank of Lake City to the Federal Reserve Bank of Richmond as stated above, and all checks which were returned unpaid were returned by the Farmers & Merchants National Bank of Lake City to the Federal Reserve Bank of Richmond, and when received by the Federal Reserve Bank of Richmond were credited to the Farmers & Merchants National Bank of Lake City as above set out.

7. On Thursday, October 7, 1926, the Federal Reserve Bank of Richmond sent to the Farmers & Merchants National Bank of Lake City a letter containing checks drawn upon the latter amounting to $14,934.12. A copy of said letter is hereto attached. The said letter and checks were received by the Farm-

ers & Merchants National Bank of Lake City on October 8, 1926, and the slip or receipt attached to such letter was mailed by the Farmers & Merchants National Bank of Lake City to the Federal Reserve Bank of Richmond on October 8th. A copy of said slip, or receipt, is hereto attached. On October _____, 1926, the Farmers & Merchants National Bank cancelled checks contained in the said letter amounting to Fourteen Thousand Nine Hundred Dollars and Sixty-two Cents ($14,900.62), and charged them to the accounts of the drawers and returned unpaid checks amounting to Thirty-three Dollars and Fifty Cents ($33.50). On October 11, 1926, the Federal Reserve Bank of Richmond charged the reserve account of the Farmers & Merchants National Bank of Lake City with the amount of all checks contained in the above mentioned letter of October 7th, and on that day credited the amount of such checks to the banks from which they had been received for collection. Later checks, totalling Thirty-three Dollars and Fifty Cents ($33.50), which had been sent in the said letter were returned unpaid to the Federal Reserve Bank of Richmond, and the amount of such checks was credited to the Farmers & Merchants National Bank of Lake City and charged to the banks from which they had been received.

8. At the opening of business on October 11th the Federal Reserve Bank of Richmond had to the credit of the Farmers & Merchants National Bank of Lake City the sum of Twenty-two Thousand and Eighty-five Dollars and Fifty-two Cents ($22,085.52) and after charging the amount of the letter of October 7th and crediting the amount of certain checks, which were returned unpaid, there remained at the close of business on October 11th a balance in the reserve account of the Farmers & Merchants National Bank of Seven Thousand Two Hundred and Thirty-five Dollars and Six Cents ($7,235.06).

9. On Friday, the 8th day of October, 1926, the Federal Reserve Bank of Richmond sent to the Farmers & Merchants National Bank of Lake City a letter containing checks amounting to Twenty-one Thousand and Forty-one Dollars

and Two Cents ($21,041.02), a copy of which letter is hereto attached. This letter was received by the Farmers & Merchants National Bank of Lake City on the 9th day of October, 1926, and upon that day the Farmers & Merchants National Bank of Lake City returned to the Federal Reserve Bank of Richmond the slip, or receipt, a copy of which is hereto attached, and on the _____ day of October, 1926 cancelled and charged to the accounts of the drawers checks contained in the said letter amounting to Twenty Thousand, One Hundred and Seventy Dollars and Seventy-one Cents ($20,170.71) (were cancelled and charged to the accounts of the drawers thereof by the Farmers & Merchants National Bank of Lake City), and checks amounting to Eight Hundred and Seventy Dollars and Thirty-one Cents ($870.31) were returned as unpaid to the Federal Reserve Bank of Richmond.

10. On Tuesday, the 12th day of October, 1926, the Federal Reserve Bank of Richmond charged the amount of the checks contained in the letter of October 8th to the account of the Farmers & Merchants National Bank of Lake City, and later credited it with all checks contained in such letter which were returned unpaid. On October 12, 1926 there appeared to the credit of the Farmers & Merchants National Bank of Lake City in its reserve account on the books of the Federal Reserve Bank of Richmond a balance of Seven Thousand Two Hundred and Thirty-five Dollars and Six Cents ($7,235.06).

11. The Federal Reserve Bank of Richmond charged the full amount of each of the checks contained in its letter of October 8th back to the banks from which the same had been received for collection, and advised such banks that actual and final payment for such checks had not been received from the Farmers & Merchants National Bank of Lake City, and later the Federal Reserve Bank of Richmond notified such banks to which such checks had been charged that it was holding the sum of Seven Thousand One Hundred and Eighty-seven Dollars and Eighty-six Cents ($7,187.86), which appeared to the credit of the Farmers

& Merchants National Bank of Lake City in its reserve account, and that it would distribute the said sum as a part payment on account of the checks contained in the letter of October 8th if it appeared that such sum was applicable as a part payment on account of the checks contained in the letter of October 8th mentioned above. The said sum is still held by the Federal Reserve Bank of Richmond pending the determination of this case. The difference between the sum mentioned in this paragraph and the balance mentioned in the paragraph next preceding is due to certain entries properly made in the reserve account of the Farmers & Merchants National Bank of Lake City denoting proper charges and credits concerning matters not involved in this controversy.

12. On Saturday, October 9, 1926, after the close of business the directors of the Farmers & Merchants National Bank of Lake City resolved to close the bank, and on Sunday, October 10th, Mr. P. H. Arrowsmith, Attorney for the Farmers & Merchants National Bank of Lake City, sent to the Federal Reserve Bank of Richmond a telegram reading as follows:

"Farmers & Merchants National Lake City closed last night trying to reorganize Monday morning will you send us Garrett to help."

This telegram was received at the office of the Federal Reserve Bank of Richmond at about 11:30 A. M. Sunday, October 10th, and the contents thereof were immediately communicated to Mr. John T. Garrett, Manager of the Bank Relations Department of the Federal Reserve Bank of Richmond who left Richmond that night for Lake City, and arrived there on the morning of October 11th. The telegram was in the hands of the proper officers of the Federal Reserve Bank at the opening of business on October 11th. The Farmers & Merchants National Bank of Lake City was not reorganized, or reopened, and on the _____ day of _____, the Comptroller of the Currency appointed Thos. A. Early

as Receiver for the Farmers & Merchants National Bank of Lake City upon the ground that the bank was insolvent.

13. On _____, 1926, the Federal Reserve Bank of Richmond sent to the receiver a statement showing that it had transferred the balance of $7,187.86 mentioned above to a suspense account, and was holding the same, and the attached letters exchanged between the receiver and the Federal Reserve Bank of Richmond. On May 11th, 1927 the receiver for the first time demanded that the Federal Reserve Bank of Richmond pay over to him the amount charged to the reserve account of the Farmers & Merchants National Bank of Lake City on account of checks contained in the letter of October 7th.

14. The Farmers & Merchants National Bank of Lake City was a member of the Federal Reserve System and had subscribed for and been allotted 78 shares of the stock of the Federal Reserve Bank of Richmond, and had paid in on said subscription the sum of Thirty-nine Hundred Dollars ($3,900.00), and dividends at the rate of 6% from June 30, 1926 have accrued thereon and are unpaid. The Receiver has surrendered to the Federal Reserve Bank of Richmond the above mentioned stock, and has demanded the surrender value thereof.

15. Any party hereto may refer to, or rely upon, any regulation of the Federal Reserve Board duly promulgated at the times mentioned above, and all of such regulations so far as are in any way applicable to the above mentioned transactions shall be deemed a part of this stipulation.

COPY X-4976-k

June 9, 1927.

Hon. Newton D. Baker,
Union Trust Building,
Cleveland, Ohio.

My dear Mr. Baker:

I enclose for your information copies of certain correspondence between this office and Mr. M. G. Wallace, Counsel for the Federal Reserve Bank of Richmond, regarding a dispute between that bank and the Receiver of the Farmers & Merchants National Bank of Lake City, which very likely will lead to litigation over the right of Federal reserve banks to charge checks to the reserve accounts of member banks after such member banks have been placed in the hands of receivers.

It occurs to me that this may open up the whole question of the right of Federal reserve banks to charge checks to the reserve accounts of member banks and that Mr. Wallace's litigation should either be postponed or should be coordinated with the litigation which may arise over member banks stamping their checks "Not payable through Federal reserve banks." I shall appreciate it very much indeed if you will kindly let me have your views about this matter.

With all best wishes, I am.

Cordially yours,

(Signed) Walter Wyatt,
General Counsel.

Enclosure:

COPY

X-4976-1

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June 9, 1927.

Mr. M. G. Wallace, Counsel,
Federal Reserve Bank,
Richmond, Virginia.

My dear Mr. Wallace:

I have received your letter of May 25th with further reference to the controversy between the Federal Reserve Bank of Richmond and the Receiver of the Farmers & Merchants National Bank of Lake City and have read same with much interest.

As you probably know, the Federal Reserve System is now threatened with litigation over the question whether a member bank can defeat the purposes of the par clearance system by stamping on its checks the words "Not payable through Federal reserve banks"; and such litigation is very likely to involve the question whether the Federal reserve banks may lawfully charge checks to the reserve accounts of their member banks. In view of this situation, a court decision growing out of your controversy with the Comptroller of the Currency might affect the handling of this other and much more important question. I am, therefore, taking the liberty of forwarding a copy of your letters to Mr. Baker for his information and am requesting suggestions from him as to the proper coordination of your litigation with that in which he may be involved on behalf of the entire Federal Reserve System.

In order that you may know what this is all about, I enclose for your information copies of certain memoranda and correspondence with reference to member banks stamping their checks "Not payable through Federal reserve banks."

With all best wishes, I am,

Cordially yours,

(Signed) Walter Wyatt,
General Counsel.

Enclosure:

WW: sad

COPY X-4976-m

255

FEDERAL RESERVE BANK
OF RICHMOND

May 25, 1927.

Federal Reserve Board,
Washington, D. C.

Attention of Mr. Walter Wyatt, General Counsel.

My dear Mr. Wyatt:

Under date of March 1st, I wrote you giving you the facts in a controversy, which has arisen between this bank and the Farmers & Merchants National Bank of Lake City.

The Comptroller of the Currency has raised another question in connection with this same bank. Under date of October 7th, we sent to the Farmers & Merchants National Bank of Lake City a letter containing checks aggregating $14,934.12. These checks were received by the member bank on October 8th, and receipt was duly acknowledged. The bank charged to the accounts of the drawers checks totalling $14,900.62 and returned checks totalling $33.50.

Under our time schedule, the amount of this letter was chargeable to the reserve account of the Farmers & Merchants National Bank on October 11th. On the night of Saturday, October 9th, the directors of the Farmers & Merchants National Bank being threatened with a run on the bank closed it, and notified us that they had closed it. This telegram was received on Sunday, October 10th. On Monday, October 11th, there appeared to the credit of the failed bank a sum exceeding the amount of the cash letter of October 7th, which was chargeable on October 11th. We accordingly charged the amount of this letter to the reserve account, and credited the member banks from whom the checks in the letter had been received. We have, of course, from time to time rendered statements to the Receiver showing that this charge was made. The Receiver did not protest against our action until recently when acting under the direction of the Comptroller of the Currency, he notified us that he would demand payment from us of the full amount of the reserve balance of the failed bank as it stood at the opening of business on October 11th. The Receiver contends that we could not charge a cash letter to the reserve account of the failed bank after receiving notice of its closing, even though the letter had been received, and the checks in the letter cancelled prior to the closing. We, have, of course, refused the Receiver's demand, and the Attorney for the Receiver and myself are endeavoring to make up an agreed statement of facts upon which this question and the other questions mentioned in my letter of March 1st may be submitted to the Federal courts for determination.

Yours very truly,
(signed) M. G. Wallace,
M. G. Wallace,
Counsel.

COPY

X-4976-n 256

April 7, 1927.

Mr. M. G. Wallace, Counsel,
Federal Reserve Bank,
Richmond, Virginia.

My dear Mr. Wallace:

I have received and should have acknowledged more promptly your letter of March 1st with reference to the right of a Federal reserve bank to charge to the account of an insolvent national bank the amount of cash letters forwarded to such bank but not paid before insolvency.

As suggested in your letter this office would desire to remain neutral on this question for the present at least since it is a controversy between the Comptroller of the Currency and the Federal Reserve Bank. I am very much interested, however, and appreciate your calling it to my attention. I shall also appreciate it if you will kindly keep me advised as to the further developments in this case.

With all best wishes, I am,

Cordially yours,

Walter Wyatt,
General Counsel.

COPY

X-4976-o

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FEDERAL RESERVE BANK OF RICHMOND.

March 1, 1927.

Federal Reserve Board,
Washington, D.C.

Attention of Mr. Walter Wyatt, General Counsel.

My dear Mr. Wyatt:

Under date of October 8, 1926, this bank sent to the Farmers & Merchants National Bank of Lake City, South Carolina, a cash letter containing checks aggregating $20,170.71. These checks were received by the Farmers & Merchants National Bank of Lake City on the following day, and were cancelled and charged to the accounts of the drawers. Under our time schedule, the amount of this cash letter was normally chargeable to the reserve balance of the Farmers & Merchants National Bank of Lake City on October 11th, but on October 10th that bank was closed by order of the Comptroller of the Currency upon the ground that it was insolvent.

At the time of its closing, it had in our hands a net reserve balance of $7,187.86. We charged back the amount of the checks contained in our letter of October 8th to the several member banks from which they had been received, but at the same time we notified them, or some of them, that we were holding the reserve balance, which we thought was applicable as a part payment on the cash letter.

We filed our claim with the Receiver, but the office of the Comptroller of the Currency has held that we are not entitled to apply the reserve balance upon the cash letter.

I realize that your office would probably desire to be neutral in the case of a controversy between the Comptroller of the Currency, and a Federal Reserve Bank, especially as I believe, it involves, an interpretation of the Regulations, but I am writing you the facts in order that you may have them before you.

As you know, paragraph 4, section 5 of Regulation J reads in part as follows:

> "Checks received by a Federal reserve bank on its member or nonmember clearing banks will ordinarily be forwarded or presented direct to such banks, and such banks will be required to remit or pay therefor at par in cash or bank draft acceptable to the collecting Federal reserve bank, or at the option of such Federal reserve bank to authorize such Federal reserve bank to charge their reserve accounts or clearing accounts; provided, however, that any Federal reserve bank may reserve the right in its check collection circular to charge such items to the reserve account or clearing account of any such bank at any time when in any particular case the Federal reserve bank deems it necessary to do so."

We had issued our circular No. 143, which read in part as follows:

> "Checks received by us drawn on our member banks will be forwarded in cash letters direct to such banks and each member bank will be required either to remit therefor in immediately available funds or to provide funds available to us to meet such cash letters within the agreed transit time to and from the member bank. Therefore, the amount of any cash letter to a member bank is chargeable against available funds in the reserve account of such member at the expiration of such transit time, which date will be shown on each cash letter. The right is reserved, however, to charge a cash letter to the reserve account of a member bank at any time when in any particular case we deem it necessary to do so."

The position taken by the Comptroller of the Currency is that the reserve balance is not a proper offset on the amount of the cash letter because with respect to the cash letter, we were acting as agents only, and the amount due upon it is due to the member banks, whereas the amount due to the failed bank on account of its reserve balance is due from us in our own right to the estate of the failed bank. I believe this position would have much strength if it were not for the provisions of the Regulations, and of the circular, but my position is that the Regulations, and the circular, operate as a contract between ourselves and the failed bank, and under this contract, the reserve balance was expressly applicable to payment for cash letters.

If the reserve balance had equalled, or exceed, the cash letter the mere fact that the bank had been closed by the Comptroller of the Currency before we had exercised our right to charge the amount of the cash letter against the reserve balance would not alter the fact that the amount of the cash letter was absolutely chargeable against the reserve balance, and if the amount of the cash letter was chargeable against the reserve balance, the fact that the reserve balance did not equal to the amount of the cash letter could not alter our right, or the rights of member banks. In other words, the Receiver standing in the shoes of the failed bank can take no advantage from the fact that the failed bank should have placed us in funds sufficient to cover the entire cash letter, and claim that we lose our right to a part because the failed bank did not place in our hands sufficient funds to discharge the whole obligation.

It seems to me that the position of the Comptroller of the Currency draws into question the right and duty of a Federal Reserve Bank in every case in which there is a failure of a member bank after the checks in a cash letter are cancelled, and before the elapse of the time allowed for remittance, or for charging the cash letter to the account of

the failing bank. It, therefore, seems to me that it is important that we reach some settlement, and I have advised the officers of the bank that I think we should frame a test case, and they have authorized me to notify the Comptroller of the Currency that we shall insist upon the application of the reserve balance, or, in any event, refuse to pay it over until the rights of the estate of the failed bank and of the member banks whose items were in the cash letter have been judiciously determined.

In view of the fact that the question is one which concerns primarily Federal Reserve Banks who do not employ the remittance system in dealing with member banks, the matter is probably not of sufficient importance to be called a "System matter", but as I stated above, I am reporting it to you in order that you may know what we are doing, and, of course, if you wish to give us any suggestions or advice, we should be delighted.

With best personal regards, I remain,

Very truly yours,

(SGD.) M. G. Wallace,
Counsel

MGW IB

FEDERAL RESERVE BOARD

X-4977

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WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 19, 1927.

SUBJECT: Holidays during November, 1927.

Dear Sir:

On Tuesday, November 1st, the New Orleans Branch and the Havana Agency of the Federal Reserve Bank of Atlanta will be closed in observance of All Saints' Day. Please include credits of November 1st for New Orleans Branch in the Gold Fund clearing of November 2nd.

On Tuesday, November 8th, the following banks and branches will be closed on account of Election Day in their respective States:

New York	Richmond
Buffalo	
	Detroit
Philadelphia	
Cleveland (1/2 day. Will participate in clearings)	
Cincinnati (1/2 day)	
Pittsburgh	

On Friday, November 11th, Armistice Day, and Thursday, November 24th, Thanksgiving Day, there will be neither Gold Settlement Fund nor Federal Reserve Note clearing, and the books of the Board's Gold Settlement Division will be closed.

For your information, the offices of the Federal Reserve Board and the following banks and branches will be open for business on Friday, November 11th:

Boston	Atlanta
New York	Detroit.
Buffalo	

Please notify Branches.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL FEDERAL RESERVE BANKS.

COPY

FEDERAL RESERVE BANK
OF
KANSAS CITY

X-4978

October 8, 1927.

Hon. Walter Wyatt, General Counsel,
Federal Reserve Board,
Washington, D.C.

My dear Mr. Wyatt:

There is sent you herewith, copy of opinion which was recently handed down by the Supreme Court of Kansas in the case of Colorado and Southern Railroad Company vs. William Docking, Receiver of the American State Bank, et al.

I knew nothing of this case until I came across it in the advance sheets of the Kansas Reports. It announces a conclusion of law which is of some importance, at least insofar as the Federal Reserve Bank of Kansas City is concerned. I consider the decision erroneous, and am now planning to have the question again presented to the court in a case in which the whole matter can be thoroughly gone into.

You will observe that the court held that a request to remit by draft which accompanied a cash letter forwarded by the Federal Reserve Bank of Kansas City to a collecting bank, changed the relationship of principal and agent which would otherwise have existed between the Federal Reserve Bank and the collecting bank, to that of creditor and debtor.

The action was by the owner of an item which was in the cash letter, to establish a preferred claim against the collecting bank, which had failed without accounting for the item in actual funds. The preference was denied by reason of the direction to remit by draft, which, in the opinion of the court, destroyed the fiduciary relationship necessary for the existence of a preference.

In view of this decision, the Federal Reserve Bank of Kansas City has now eliminated directions of this kind from its cash and collection letters.

Yours very truly,

(Sgd.) H.G. Leedy.

HGL:CR.

SUPREME COURT OF KANSAS.

No. 27, 350.

THE COLORADO & SOUTHERN RAILWAY COMPANY, Appellee, v. WILLIAM DOCKING, RECEIVER OF THE AMERICAN STATE BANK, and THE RESERVE STATE BANK, Appellants.

Syllabus by The Court.

1. BANKS and BANKING--Insolvency--Preferred Claim--Cashier's Check Covering Collection. Where a bank received a draft for collection and return with instructions to remit by draft on Kansas City, makes the collection the same day through a local clearing house and immediately sends the bank the collection item, a cashier's check covering the same, and the collecting bank fails the same day and the check is returned to the receiver of such bank, the relation of the collecting bank to the owner of the collection item is that of debtor and creditor and the item is not a trust fund.

2. SAME--Insolvency--Preferred Claims--Transactions Made With Knowledge of Insolvency. Where the above transaction took place while the bank was in an insolvent condition, being one of many other similar transactions taking place at the same time and as a usual and ordinary line of banking business, it is not such a fraudulent transaction as to make the collected item a trust fund, even if the officers of the bank knew of its insolvent condition.

Appeal from Sedgwick district court, division No. 1; J. EVERETT ALEXANDER, judge. Opinion filed July 9, 1927. Reversed.

C.H. Brooks, Willard Brooks and Howard T. Fleeson, all of Wichita, for the appellants.

Chester I. Long, J.D. Houston, Austin M. Cowan, Claude I. Depew, James G. Norton and W.E. Stanley, all of Wichita, for the appellee; J.L. Rice and E.B. Evans, both of Denver, Colo., of counsel.

The opinion of the court was delivered by

HUTCHISON, J: This action was brought by the plaintiff after the failure of the American State Bank in Wichita and the appointment of a receiver, to establish a preferential claim against the receiver and against the Reserve State Bank, which purchased from the receiver some of the assets of the American State Bank. The only defense in the case by the receiver and the Reserve State Bank was on the question of the claim being preferred, it being admitted that the plaintiff had a common claim against the receiver

in the amount alleged. A jury was empaneled, but upon making the admission just mentioned, during the course of the trial the jury was discharged and the case was tried to the court, who made extensive findings of fact and concluded the claim to be a preferential one and rendered judgment accordingly in favor of the plaintiff and against the defendant receiver and the Reserve State Bank, from which judgment the receiver and the Reserve State Bank appeal.

In June, 1923, the Kansas City, Mexico & Orient Railway company was indebted to the Colorado & Southern Railway Company in the sum of $1,501, for which indebtedness the Colorado & Southern Railway Company drew its draft on the Orient railway company and deposited the draft in the Colorado National Bank, of Denver, Colo., for collection and credit. The deposit slip issued by the Denver bank showed that credit was given to the plaintiff conditionally, the bank reserving the right to charge back to the depositor all unpaid items or returns. The Colorado bank on the same day in due course of business forwarded the item to the New England National Bank, of Kansas City, Mo., for collection and credit, which bank in due course forwarded the item to the Federal Reserve Bank, of Kansas City, Mo., for collection and credit. On June 16, 1923, the Federal Reserve Bank in due course forwarded this item to the American State Bank, of Wichita, for collections and returns. Some of the instructions given in the letter of transmittal were the following: "Do not remit for this collection unless it is actually paid." "Please remit by draft on Kansas City". The draft was duly received by the American State Bank on June 18, 1923, and at 11 o'clock that day the said bank presented it at the meeting of the Wichita clearing house, together with other items, and was given credit for the full amount thereof on the settlement sheet of the clearing house, it being by previous arrangement of the Orient Railway Company cared for by the Fourth National Bank, of Wichita, and in such settlement the American State Bank was required to "put up" a difference of over $17,000, the amount of its debits exceeding the amount of this and other credits by that amount in that day's business. Upon receiving credit for this draft in this manner on June 18 at 11 o'clock, the cashier of the American State Bank immediately drew a cashier's check on itself payable to "ourselves" for the sum of more than $18,000 in payment of collections which it had received that day from the Federal Reserve Bank, which included the draft in question of $1,501. The American State Bank closed its doors at 3 o'clock on the afternoon of that day and never reopened. The cashier's check for more than $18,000 sent to the Federal Reserve Bank, not being indorsed by any of the officers of the American State Bank and the bank having failed before the check could be presented for payment, was returned to the deputy bank commissioner in charge of the American State Bank on June 19, and the receiver of said bank had said check in his hands at the time of the trial. A large share of the assets of the American State Bank were sold to the Reserve State Bank when it was organized. In the trial of the case it was admitted that the American State Bank was insolvent on June 18, 1923, and had been insolvent for one week prior thereto. Two of the findings of the court on this question are as follows:

"13. On June 18, 1923, The American State Bank was insolvent and had been in an insolvent condition for one week prior thereto."

"15. That the insolvency of the American State Bank was known to the officers of said bank on June 18, 1923, at the time it

accepted the draft in question for collection."

There is only one question here for determination, and that is whether the $1,501 item so collected by the American State Bank and attempted to be remitted to the Federal Reserve Bank by the cashier's check was a preferred claim against the assets of the American State Bank and its receiver. Our court has frequently held that there are two distinct steps to be taken in reaching a decision as to whether a claim against the assets of an insolvent bank is entitled to be preferred:

> "Before a claim can be allowed as a preferred claim against the receiver of an insolvent bank, it is necessary to establish, first, that the claim in question is a trust fund; and, second, that the fund in some form was a part of the assets of the bank which passed into the hands of the receiver." (State Bank v. State Bank, 114 Kan. 463, syl. 1, 218 Pac. 1000. See, also, Nelson v. Paxton, Receiver, 113 Kan. 394, 214 Pac. 784.)

The same two steps are necessary where the fund becomes a trust fund on account of fraud or fraudulent inducement. (Investment Co. v. Bank, 98 Kan. 412, 158 Pac. 68; Kirby v. Wait, 120 Kan. 400, 243 Pac. 1080.) A fund will not necessarily become a trust fund simply because the assets reaching the hands of the receiver have been augmented by the transaction. This is simply a feature to be considered separately and apart from the first essential as to preference and after it has first been determined that the fund is a sacred or trust fund, either on account of the relationship of the parties to the transaction as principal and agent, debtor and creditor, or trustee and cestui que trust, or on account of the fraudulent conduct of the officers of the bank. Then in proper sequence arises the second question, Did the transaction augment the assets reaching the hands of the receiver? It can readily be seen that many a trust fund will fail of preference because it does not augment the assets reaching the hands of the receiver, and, on the other hand, many a case can exist where there is no question about the assets being augmented; but that can avail nothing toward a preference unless it has already been found to be a trust fund. In nearly all of the earlier cases cited in this connection only one of these elements was involved or considered, the trust fund feature was conceded, agency admitted, etc. Such cases afford only comparative help, whereas in this both elements are contested.

The draft in question in making its trip from Denver to Wichita via Kansas City, Mo., passed through several banks for collection and credit, and undoubtedly the relation of one to the other, up to and including the American State Bank, in turn was that of principal and agent, and that relation might still have been maintained had it not been for the order of the Federal Reserve Bank requiring remittance to be by draft on Kansas City. This interrupted that relationship by making the Wichita bank a debtor. This direction was disregarded to the extent of using a cashier's check instead of draft on Kansas City, which made the situation no better. Immediately, of necessity, the funds collected became a part of the funds of the collecting bank and were mixed with its funds, thus losing for them any claim of being a special fund.

"The general rule is that the title to commercial paper received for collection by a bank and forwarded to its correspondent in the usual course of business does not vest in such correspondent. The relation between the two banks, as between the depositor and the forwarding bank, is that of principal and agent merely. The correspondent bank receives such paper as an agent for collection, and the title does not pass. When, however, the paper has once been collected by the correspondent bank, and it has received the proceeds therefor, the relation between the remitting bank and itself is changed from that of principal and agent to that of debtor and creditor, and the title to such proceeds will, in the absence of an agreement to the contrary, vest in the correspondent bank. The banks are presumed to contract in view of the well-known and established custom of banks, when acting as collecting agents for other banks, or, indeed, for any customer, to put all collections made by them into the general fund of the bank, unless directed to make of them a special deposit, and use them from hour to hour and from day to day in the transaction of their current business." (3 R. C. L 636.)

"As a general rule, the proceeds of paper collected by a bank becomes the property of the bank and a part of its general fund, and the bank becomes a debtor to the owner of the paper for the amount collected, less the charges for collection; and it follows that, on the insolvency of the collecting bank, there is no preference in favor of the owner of the paper or of a forwarding bank with respect to the proceeds." (7 C. J. 616.)

Both the texts state the rule in subsequent paragraphs to those above quoted as being different where the paper is deposited for collection only or for collection under express directions to collect and remit. Such express directions are more or less common where the bank is suspected of being in failing condition, and they usually designate remittance in currency.

"Any agreement or understanding or course of dealing whereby the bank is to use the identical moneys collected and substitute its own obligation in its stead, destroys all idea of trust."
(Akin v. Jones, 93 Tenn. 353, 362.)

This transaction was handled in the usual and ordinary way of making collections through banks, with the relationship of principal and agent existing until the collection was made; then the bank by its own obligation in the form of a cashier's check acknowledged itself to be indebted to the Kansas City correspondent for the benefit of the plaintiff herein and the relation of debtor and creditor arose, which is inconsistent with the idea of the collection being a trust fund.

"Where a bank receives payment of a note placed with it by the owner for collection, and upon request of the owner delivers him a cashier's check for the amount, there being then cash on hand sufficient to meet it, the position of the owner becomes that of a

creditor of the bank, entitled to no preference over ordinary creditors upon the failure of the bank leaving unpaid a draft, which was given by it on presentation of the check." (Massey-Harris Harvestor Co. v. First State Bank, 122 Kan. 483, syl., 252 Pac. 247.)

The same or similar views are expressed in the following recent Kansas cases: Clark v. Bank, 72 Kan. 1, 82 Pac. 582; State Bank. v. State Bank, supra; El Dorado Nat'l Bank v. Butler County State Bank, 120 Kan. 109, 242 Pac. 475; Guymon-Petro Mercantile Co. v. Farmers State Bank, 120 Kan. 233, 243 Pac. 321; First Nat'l Bank. v. Farmers State Bank, 120 Kan. 706, 244 Pac. 1039.

It was admitted in the trial of the case that the bank was insolvent at the time this transaction occurred, and had been insolvent for a week prior thereto, and the court found that the insolvency of the bank was known to its officers prior to the acceptance of the draft for collection. There is considerable controversy as to the sufficiency of proof for this finding. It is claimed that the only evidence that was introduced on that subject was an unverified pleading from the files of the district court filed prior to the transaction alleging the bank to be insolvent and that such was inadmissible. Without attempting to decide the question of the admissibility of this testimony and the weight that should be given to it, we think that this being a usual and ordinary daily transaction of a bank and the fact that the check was sent immediately after and on the same day the draft was received and paid, goes to show with or without the knowledge of insolvency that the officers of the bank were trying to keep it going, and the situation is very different from that where a deposit is received when the bank is known to the officers to be insolvent. This transaction, if consummated, would not have enriched or benefited the condition of the bank, whereas a deposit would be wholly one-sided and without any immediate obligations whatever except to meet the checks of the depositor. In the case of First National Bank v. Farmers State Bank, 119 Kan. 198, 237 Pac. 652, the insolvent bank asked a neighboring bank for $1,000 in currency because it was short on currency, and gave its cashier's check, with the understanding that it would be paid in four or five days. In the meantime the bank failed. The court held this was not of a fiduciary or trust character, and therefore was not a trust fund liable to a preference because of the fraudulent conduct of the officers of the failing bank.

"A bank is guilty of fraud on a general depositor in accepting his deposit after the bank has become hopelessly insolvent and has committed an act of insolvency, and the depositor may recover from the receiver of the bank to the extent the deposit augmented the funds coming into the hands of the receiver." (Kime v. Ladd, 112 Kan. 603, syl., 211 Pac. 628.)

"The general rule is to the effect that acceptance of general deposits by a bank which is hopelessly insolvent to the knowledge of its officers constitutes such a fraud as will entitle the unsuspecting depositor to rescind and recover back the money, or give him a preferential claim, or create a trust ex maleficio, provided other conditions sometimes held essential to a recovery, such as

augmentation of assets, identifications, etc., can be satisfied." (20 A. L. R. 1206. See, also, City of Spring Hill v. Paxton, Receiver, 115 Kan. 412, 223 Pac. 283.)

The record here shows that this was one of many similar transactions the same day, and that the check sent out was for $18,000, all of which would tend to show that it was being done in the usual and ordinary course of business and not with a plan or design to fraudulently acquire the benefit of this collection. We therefore conclude that the relation of the parties is that of debtor and creditor and not trustee and cestui que trust, and that the fund in question was not a trust fund.

This conclusion makes it unnecessary for us to consider the second element as hereinbefore described in finding a claim to be preferintial, viz., whether or not the funds in question reached the hands of the receiver.

With reference to the question of interest, the plaintiff is entitled to interest on its common claim from the date the bank collected the claim. R. S. 41-101 provides:

"Creditors shall be allowed to receive interest at the rate of six per cent per annum, when no other rate of interest is agreed upon, for any money after it becomes due; for money lent or money due on settlement of account, from the day of liquidating the same and ascertaining the balance."

In the case of Turner v. Otis, 30 Kan. 1, 1 Pac. 19, it was held in the dissolution of a partnership:

"Where a settlement is corrected by charging the defendant with a certain amount which he had wrongfully collected and withheld, such amount should carry interest from the time of collection." (Syl. 2. See, also, City of Spring Hill v. Paxton, Receiver, supra; Honer v. State Bank, 114 Kan. 123, 216 Pac. 822.)

The judgment of the district court is reversed and the cause remanded, with instructions to render judgment in favor of the plaintiff for $1,501 and interest thereon, but that such claim shall not be entitled to preference in the distribution of the assets or entitled to any priority with reference to the assets purchased from the receiver of the American State Bank by the Reserve State Bank.

(Confidential) X-4980

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October 20, 1927.

To: The Federal Reserve Board, Subject: The Board's power over foreign transactions of Federal Reserve Banks.

From: Mr. Wyatt- General Counsel.

The Board has requested an opinion with respect to what regulations, limitations and restrictions it is authorized to prescribe as to foreign or international transactions of Federal reserve banks, and as to its general authority over such transactions. I understand that the Board desires to have the following points covered in this opinion:

(1) Whether the Board has power to regulate, limit, or restrict transactions involving the opening of accounts, the appointment of correspondents, or the establishment of agencies in foreign countries;

(2) Whether the Board has power to regulate, limit, or restrict dealings in bills of exchange and bankers' acceptances between Federal reserve banks and foreign central banks;

(3) Whether the Board has power to regulate, limit, or restrict dealings in gold between Federal reserve banks and foreign central banks; and

(4) Whether the Federal reserve banks may lawfully charge a commission or fee in connection with such foreign transactions.

CONCLUSIONS.

After careful consideration of these questions, I have reached the following conclusions:

(1) Under the specific terms of section 14(e) of the Federal Reserve Act, no Federal reserve bank may lawfully open or main-

tain accounts, appoint correspondents, or establish agencies in foreign countries without first obtaining the consent of the Federal Reserve Board; and the opening and maintenance of such accounts, the appointment of such correspondents, the establishment of such agencies and the conduct through such correspondents or agencies of "any transaction" authorized by section 14 of the Federal Reserve Act for or on behalf of other Federal reserve banks is expressly made subject to such rules and regulations as the Federal Reserve Board may prescribe. In addition, the Board has the power to order or direct Federal reserve banks to open and maintain accounts, appoint correspondents and establish agencies in foreign countries.

(2) By virtue of specific provisions of the Federal Reserve Act, the Federal Reserve Board is authorized and empowered to prescribe regulations, restrictions and limitations governing dealings in bills of exchange between Federal reserve banks and foreign central banks.

(3) By virtue of its right to exercise general supervision over Federal reserve banks, and by virtue of certain other powers specifically granted in the Federal Reserve Act, the Federal Reserve Board is authorized to regulate, limit or restrict important dealings in gold involving large amounts between Federal reserve banks and foreign central banks under section 14(a) of the Federal Reserve Act.

(4) Whenever the Federal reserve banks enter into any lawful transaction involving the extension of credit to, or the performance of any service for, a foreign central bank, they may lawfully charge a reasonable commission or fee for the extension of such credit or the rendition of such services.

DISCUSSION.

The only one of these questions which presents any difficulty is the question whether the Board has the power to regulate, limit or restrict dealings in gold between Federal reserve banks and foreign central banks. I shall, therefore, discuss the other questions first and take up this more difficult question last.

FOREIGN ACCOUNTS, CORRESPONDENTS AND AGENCIES.

The authority for Federal reserve banks to open and maintain accounts, appoint correspondents, and establish agencies in foreign countries is conferred by the following language of Section 14:

> "Every Federal reserve bank shall have power:
>
> "(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Federal Reserve Board and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Federal Reserve Board, to open and maintain banking accounts for such foreign correspondents or agencies. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Federal Reserve Board, any other Federal reserve bank may, with the consent and approval of the Federal Reserve Board, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board."

From a mere reading of this language it is obvious that the Federal Reserve Board is given full control of all transactions conducted thereunder. No Federal reserve bank may open or maintain accounts, appoint correspondents, or establish agencies in foreign countries except with the consent and subject to the regulations of the Federal Reserve Board; and any Federal reserve bank must open and maintain accounts, appoint correspondents, or establish agencies in foreign countries if ordered or directed to do so by the Federal Reserve Board. The opening and maintaining of such accounts, the appointment of such correspondents, and the establishment of such agencies is expressly made subject to "regulations to be prescribed by said board." No Federal reserve bank may open and maintain banking accounts through such foreign correspondents or agencies without the consent of the Federal Reserve Board. Other Federal reserve banks may participate in such transactions only with the consent and approval of the Federal Reserve Board. And all transactions through such correspondents or agencies in which other Federal reserve banks participate must be conducted "under rules and regulations to be prescribed by the Board."

This gives the Board the fullest possible measure of control, and it is important to note that the rules and regulations which may be prescribed by the Board governing transactions in which other of the Federal reserve banks participate pertain to all transactions authorized by any part of Section 14, and is not limited to transactions under subdivision (e).

DEALINGS IN BILLS OF EXCHANGE AND ACCEPTANCES.

The power of the Federal reserve banks to deal on the open market in bills of exchange and bankers' acceptances is conferred by the

first paragraph of section 14, which reads as follows:

> "Sec. 14. Any Federal reserve bank may, under rules and regulations prescribed by the Federal Reserve Board, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for rediscount, with or without the indorsement of a member bank."

It is obvious that all transactions conducted under authority of this paragraph are expressly made subject to "rules and regulations prescribed by the Federal Reserve Board."

Further and more complete authority to control such transactions is conferred upon the Federal Reserve Board by the following paragraph of section 13:

> "The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board."

It has been suggested that this paragraph pertains only to domestic transactions and gives the Board no power over transactions in foreign countries; but, the broad language used by Congress is not subject to any such restricted interpretation. It will be noted that it applies not only to the discount and rediscount but also to the purchase and sale by any Federal reserve banks of any bills receivable and of domestic and foreign bills of exchange and of acceptances authorized by this Act. It is not limited in terms to domestic transactions but is couched in the broadest possible language and is obviously intended to include all purchases and sales by any Federal reserve bank of any bills receivable, domestic and foreign bills of exchange, or acceptances authorized by the Federal Reserve Act.

It has been suggested that it was intended to apply only to transactions under section 13 and does not apply to dealings under section 14. A glance at the legislative history of this provision, however, shows that it could not possibly have been intended to apply only to section 13. As contained in the original Federal Reserve Act, this provision applied only to rediscounts but it was amended by the Act of September 7, 1916, so as to apply also to purchases and sales. At that time section 13 did not authorize Federal reserve banks to purchase and sell bills receivable, bills of exchange or bankers' acceptances but dealt with discounts and rediscounts and the only authority for the purchase and sale of bills of exchange and acceptances by Federal reserve banks was contained in section 14. Even at this late date, the only authority in section 13 to purchase and sell bills of exchange is the authority added by the Agricultural Credits Act of March 4, 1923, to purchase and sell bills of exchange payable at sight or on demand which are drawn to finance the domestic shipment of nonperishable readily marketable staple agricultural products.

It is obvious, therefore, that the authority conferred upon the Federal Reserve Board by the above quoted provision of section 13 is intended to apply to the purchase and sale of bills of exchange and bankers' acceptances by Federal reserve banks at home or abroad under section 14.

In my opinion, therefore, the specific provisions of the Federal Reserve Act authorize and empower the Federal Reserve Board to prescribe regulations, restrictions, and limitations covering dealings in bills of exchange and bankers' acceptances between Federal reserve banks and foreign central banks.

RIGHT OF FEDERAL RESERVE BANKS TO MAKE A REASONABLE CHARGE IN CONNECTION WITH FOREIGN TRANSACTIONS.

Assuming that Federal reserve banks have power to engage in transactions whereby they sell or lend gold to foreign banks, purchase bills for the account of foreign banks or extend credit in any way to foreign banks, have the Federal reserve banks the right to charge a reasonable commission or fee for so doing?

In my opinion it is an incidental power of Federal reserve banks to make a reasonable charge for any service lawfully rendered by them, unless such charge is prohibited by statute or is contrary to public policy. There is no statute prohibiting the making of charges by Federal reserve banks in connection with dealings in gold or bills of exchange with foreign central banks, nor is there anything in the Federal Reserve Act to indicate that such a charge should be considered contrary to public policy. Assuming that the Federal reserve banks have power to engage in these foreign transactions, I am of the opinion, therefore, that they are legally authorized to make a reasonable charge for the services which they render in that connection.

GOLD TRANSACTIONS.

Section 14(a) authorizes and empowers the Federal reserve banks:

> "(a) To deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold;"

This section does not expressly authorize the Federal Reserve Board to regulate, limit or restrict the exercise of the powers conferred thereby; but I am of the opinion that such authority is to be found else-

where in the Act.

I am not familiar with the details of the arrangements between the Federal Reserve Bank of New York and the various central banks of foreign countries; but it is my understanding that, whenever the Federal Reserve Banks have undertaken to enter into transactions with foreign central banks involving the purchase and sale of bills of exchange or dealings in gold, the Federal Reserve Bank of New York has first entered into mutual arrangements with such central banks whereby each bank appoints the other its correspondent or agent, and that the transactions which take place under these arrangements are conducted by the Federal Reserve Bank of New York on behalf of all Federal Reserve Banks on a pro rata basis. Where this is done there can be no doubt of the Board's power to prescribe rules and regulations governing all such transactions which are authorized by any part of Section 14; because the last sentence of Section 14(e) provides that:

> "Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Federal Reserve Board, any other Federal reserve bank may, with the consent and approval of the Federal Reserve Board, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board."

It has been suggested that the words "any transactions" as used here refer only to the purchasing, selling and collecting of bills of exchange under authority of subdivision (e) of Section 14; but, in my opinion, no such restricted interpretation can properly be given to these words. The words "any transaction authorized by this section"

are very broad in their scope and clearly include every transaction authorized by any part of Section 14, including the power granted by Subdivision (a) to deal in gold coin and bullion at home or abroad. In my opinion, therefore, this provision of subdivision (e) of Section 14 specifically authorizes the Board to prescribe rules and regulations governing any and all transactions in gold between a Federal reserve bank and a foreign central bank which has been appointed as the agent or correspondent of such Federal reserve bank, if other Federal reserve banks participate in such transactions.

Independently of the power conferred by section 14(e), however, I am further of the opinion that the Federal Reserve Board is authorized to regulate, limit or restrict international gold transactions of the Federal reserve banks, even when such transactions are not conducted through correspondents or agencies opened or established pursuant to section 14(e). This power in my opinion is included in the power conferred by section 11(j) "to exercise general supervision over said Federal reserve banks" and the power conferred by Section 11(i) to "perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said Board effectively to perform the same.

In view of the great importance of this question, I shall discuss at length the nature and extent of the Board's power of general supervision, the legislative history of the open market powers of the Federal reserve banks, the respective functions of the Federal reserve banks and the Federal Reserve Board in the Federal Reserve System and the relation of international gold transactions to other

transactions over which the Board has been given specific powers. Before entering upon such a lengthy discussion, however, I shall state briefly my reasons for the above conclusion.

1. It has long been recognized that banking is a business affected with the public interest and that banks are subject to regulation under the police power for the protection of the general welfare of the people.

2. Because of their very nature and because of the far-reaching effects of their policies and transactions on the general welfare of the people, this is especially true of Federal reserve banks.

3. Federal reserve banks are instrumentalities of the Federal government created for public purposes and are at all times and in all respects subject to the paramount authority of the Federal government.

4. The Federal Reserve Board is an arm of the Federal government created for the purpose of administering the Federal Reserve Act and exercising general supervision over the Federal reserve banks, to the end that they may function in a manner best calculated to carry out the purposes of the Federal Reserve Act, to serve the public policy of the United States, and to benefit the people of the United States.

5. The Board's general power of supervision includes the power to see that the Federal reserve banks preserve and protect the banking reserves of the country with which they are entrusted, that they do nothing which may endanger the solvency or soundness of their currency, that they carry out faithfully the purposes of the Federal Reserve Act and that they comply in all respects with both the letter and the spirit of the law. This power carries with it the power to

require the Federal reserve banks to cease doing anything which is ultra-vires or which might defeat the purposes of the Federal Reserve Act or which might be detrimental to the public interest. Moreover, this power is to be construed liberally so as to enable the Board effectively to safeguard the great public interests confided to it.

6. From an examination of the Committee reports and legislative debates on the Federal Reserve Act it is perfectly clear that the power of carrying on the regular routine everyday business of the Federal reserve banks and the power of determining local policies was entrusted to their respective board of directors, but the Federal Reserve Board was created as "a general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

7. To this end, the Board was given power, among other things, to review and determine the rates of discount to be fixed by each Federal reserve bank from time to time, to regulate the open market transactions of the Federal reserve banks, to exercise general supervision over the Federal reserve banks, and to make all rules and regulations necessary to enable the Board to perform the duties, functions or services specified in the Federal Reserve Act.

8. The power to purchase and sell bills of exchange and bankers' acceptances in the open market was conferred upon the Federal reserve banks in order to enable them to make their rediscount rates effective and to protect their gold reserves, but this power was subjected to

regulation by the Federal Reserve Board in order that the Board might have some control over the reserve positions of the banks, the rediscount rates, and general credit conditions throughout the country.

9. For the same reason, the Board was given a great measure of control over the other open market operations of the Federal reserve banks, over their power to appoint correspondents, open accounts and establish agencies abroad, and over the transactions which might be conducted through such foreign correspondents and agencies.

10. The effectiveness of the powers thus conferred upon the Board would be seriously impaired and the Board's ability to exercise some control over the rediscount rates, open market operations and foreign transactions of the Federal reserve banks with a view to protecting the general credit situation and overseeing the "broader banking functions" affecting the country as a whole might be rendered nugatory if the Federal reserve banks could enter into transactions with foreign banks involving the purchase and sale, lending, borrowing and earmarking of gold, thereby moving great quantities of gold into or out of the country, without being subject to any regulation or check by the Federal Reserve Board.

11. Any statute must be construed as a whole and in such a way as to carry out the intent of the legislature. The intent of the legislature must be obtained by reading the act as a whole and not by construing isolated provisions of the same without any reference to their relation to the other provisions of the act or the effect of such construction upon other provisions of the act.

12. To construe the Board's powers "to exercise general supervision over the Federal reserve banks" and "to perform the duties,

functions or services specified in this act and to make all rules and regulations necessary to enable said Board effectively to perform the same" strictly and in such a way as not to include the power to exercise some control over international gold transactions, would clearly defeat the broad purposes of the Federal Reserve Act and greatly impair the Board's function as a "general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

13. Dealings in gold between the Federal reserve banks and foreign central banks are transactions of importance to the entire Federal Reserve System and to the public interests of the United States as a whole. Normally large amounts are involved in these dealings. Frequently in such transactions the funds of the Federal reserve banks are invested in or represented by assets located in foreign countries. This use of large amounts of the funds of the Federal Reserve System might cause a serious restriction upon the amount of funds available for use in this country and harmful results upon the Federal Reserve System or upon the business interests of this country might ensue. It could seriously affect the gold reserves of the country and the effectiveness of the rediscount rate.

14. Under these circumstances, the question whether and to what extent Federal reserve banks should engage in transactions of this kind is an important question of policy to the Federal Reserve System as a whole. The practical responsibility of such transactions is one

which in the last analysis, must rest upon the Federal Reserve Board. If the Federal Reserve Board's power of general supervision over Federal reserve banks is to have any practical effect or is to be given any substantial meaning, it must be considered to extend to and include the regulation or restriction of such important activities of Federal reserve banks as these international dealings in gold, which may impair the effectiveness of the rediscount rate and the open market transactions over which the Board is expressly given a large measure of control.

I am of the opinion, therefore, that by virtue of its right to exercise general supervision over Federal reserve banks the Federal Reserve Board is empowered and authorized to restrict or regulate important dealings in gold involving substantial amounts between Federal reserve banks and foreign central banks under section 14(a) of the Federal Reserve Act and that accordingly the Federal Reserve Board may, if it so desires, require Federal reserve banks to obtain its approval before entering into such transactions.

FURTHER DISCUSSION AND CITATION OF AUTHORITIES.

The above is only a summary of the reasons for my conclusions regarding the Board's power to exercise supervision and control over international gold transactions. In view of the vast importance of this subject, I have made a very lengthy and complete study and feel that I should submit below for future reference the results of that study and the citations of such authorities as I have found.

GENERAL SUPERVISORY POWER.

I have made a careful and thorough study of the Board's general supervisory power and of the legal authorities regarding the general supervisory or visitatorial powers in general. I submit the following discussion of that subject for the Board's further information.

It is customary in American law to vest in some board, commission, or officer, the power to exercise general supervision over certain types of corporations such as common carriers, insurance companies, and banks, which are affected with a public interest. Furthermore, under American law all corporations are chartered by the Government and have only such powers as are expressly granted in their charters or in the laws under which they are incorporated and such incidental powers as are necessary to the exercise of the powers expressly granted. It is well settled that by implication they are forbidden to exercise any other powers. The State, therefore, is interested in any attempt by a corporation to exceed its corporate powers and it is well settled that the State is the one to complain of any ultra vires acts of a corporation and is the only one which can institute quo warranto proceedings to compel a corporation to cease performing ultra vires acts. The duties of boards, commissions or officers charged with general supervision over corporations affected with a public interest, therefore, are primarily to see that such corporations do not exceed their lawful powers and that they carry out the purposes of their organization in such a way as to benefit rather than injure the public, and to prevent or check any abuses of any character.

This power, in its general nature and purpose is quite similar to, if not the same as, the common law power of visitation. A discussion of the authorities on the subject of visitatorial powers, therefore, may throw some light on the extent of the Board's duties and powers in the premises.

The visitors of eleemosynary and ecclesiastical corporations at common law, however, frequently performed all the functions and possessed all the powers which are now divided between the directors of banks and the governmental authorities having supervision over them; and it is im-

portant to keep this in mind while reading the authorities quoted below:

Bouvier's Law Dictionary. (p. 3404) discusses this subject as follows:

"Visitation. The act of examining into the affairs of a corporation.

"The power of visitation is applicable only to ecclesiastical and eleemosynary corporations. 1 Bla. Com. 480. The visitation of civil corporations is by the government itself, through the medium of the courts of justice. See 2 Kent, 240. In the United States, the legislature is the visitor of all corporations founded by it for public purposes; Dartmouth College v. Woodward, 4 Wheat. (U.S.) 518 4 L. Ed. 629.

* * * * * * * * * * * *

"All eleemosynary corporations who are to receive the charity of the founder have visitors if they are ecclesiastical corporations; and if a particular visitor is not provided by the founder, then the Ordinary of the place is the visitor; if they are lay corporations, the founder and his heirs are perpetual visitors; 5 Mod. 404. It is a necessary incident of an eleemosynary corporation; 1 Mod. 82; "a power to correct abuses and to enforce due observance of the statutes of the charity, but not a power to revoke the gifts, to change uses or divest rights;" Allen v. McKean 1 Sumn. 276, Fed. Cas. No. 229, per Story, J.

"A visitor has the right of inspecting the affairs of the corporation, and superintending all officers who have charge of them according to the statutes of the founder, without any control or revision of any other person or body, except the judicial tribunals, by whose authority and jurisdiction he may be restrained and kept within the limits of the granted powers, and made to regard the general laws of the land; in re Murdock, 24 Mass. 303. No. appeal lay from a visitor unless he visits qua Ordinary, when an appeal lay to the Crown in Chancery. It was said by Lord Camden that visitation is despotism uncontrolled and without appeal; Grant, Corp. 534. See, generally, Tudor, Charitable Trusts; Stephens, Statutes Relating to Ecclesiastical, etc., Institutions; Report of Oxford Commission (1852); 7 Com. Dig. 545; 21 Viner, Abr. 587. See 34 L. Mag. and Rev. 40, as to Oxford and Cambridge Universities.

"In Massachusetts it is held that the visitation of eleemosynary corporations according to the common law is in force except as altered by statute; In re Murdock, 24 Mass. 303; such statutes may vest visitatorial power in the courts, in the absence of a personal visitor, or even where there is one; In re Taylor Orphan Asylum, 36 Wis. 534; but where visitatorial power is conferred on certain public officers, the courts may not interfere unless such visitors should act contrary to law; Nelson v. Cushing, 2 Cush. (56 Mass.) 519.

"Even where a testator, in founding a hospital, directed that the trustees should annually report their acts to the court and give bonds, it was held that the court had no visitatorial power or other supervision;

Jenkins v. Berry, 119 Ky. 350, 83 S.W. 594.

"The visitatorial power of a court over a cemetery association does not authorize it to substitute its own business judgment for that of the association; Roanoke Cemetery Co. v. Goodwin, 101 Va. 605, 44 S.E. 769.

"Under the visitatorial powers of a state over corporations doing business within its borders, it is competent for it to compel such corporations to produce their books and papers for investigation and to require the testimony of their officers and employees to ascertain whether its laws have been complied with, and this power extends to the production of books and papers kept outside of the state, and a statute requiring such production does not amount to an unreasonable search or seizure or a denial of due process of law; Consolidated R. Co. v. Vermont, 207 U. S. 541, 28 Sup. Ct. 178, 52 L. Ed. 327, 12 Ann. Cas. 658; Hammond P. Co. v. Arkansas, 212 U.S. 322, 29 Sup. Ct. 370, 53 L. Ed. 530, 15 Ann. Cas. 645. A corporation, being the creature of the state, has not the constitutional right to refuse to submit its books and papers for an examination at the suit of the state, and an officer of a corporation charged with criminal violation of a statute cannot plead the criminality of the corporation as a refusal to produce its books; Hale v. Henkel, 201 U. S. 43, 26 Sup. Ct. 370, 50 L. Ed. 652. A corporation is bound to furnish information when called for by the state, so far as reasonably possible, and state the facts which excuse them from answering more fully; State v. Express Co., 81 Minn. 87, 83 N.W. 465, 50 L.R.A. 667, 83 Am. St. Rep. 366; by statute the right exists in Kansas; See Western U. Tel. Co. v. Austin, 67 Kan. 208, 72 Pac. 850.

"It may be considered that, to a certain extent, railroad commissions are the machinery created by law for the exercise of visitatorial power.

"This power does not include the common law right of the shareholder to inspect the books of the corporation; Guthrie v. Harkness, 199 U.S. 148, 26 Sup. Ct. 4, 50 L. Ed. 130, 4 Ann. Cas. 433."

In the famous Dartmouth College Case, 17 U.S. (4 Wheat) 517, 672, Mr. Justice Story discusses the subject of visitors of eleemosynary corporations as follows:

> "To all eleemosynary corporations, a visitatorial power attaches, as a necessary incident; for these corporations being composed of individuals, subject to human infirmities, are liable, as well as private persons, to deviate from the end of their institution. The law, therefore, has provided, that there shall somewhere exist a power to visit, inquire into, and correct all irregularities and abuses in such corporations, and to compel the original purposes of charity to be faithfully fulfilled. 1 Bl. Com. 480. The nature and extent of this visitatorial power has been expounded with admirable fulness and accuracy by Lord Holt in one of his most celebrated judgments. Phillips v. Bury, 1 Ld. Raym. 5; s.c. 2 T.R. 346. And of common right, by the dotation, the founder and his heirs are the legal visitors, unless the founder has appointed and assigned another person to be visitor. For the founder may, if he please, at the time of the

> endowment, part with his visitatorial power, and the person to whom it is assigned will, in that case, possess it in exclusion of the founder's heirs. 1. Bl. Com. 482. *** But where trustees or governors are incorporated to manage the charity, the visitatorial power is deemed to belong to them in their corporate character. Philips v. Bury, 1 Ld. Raym. 5; s.c. 2 T.R. 346; Green v. Rutherforth, 1 Ves. 472; Attorney-General v. Middleton, 2 Ibid.327; Case of Sutton Hospital, 10 Co. 23,31."

That the power to supervise and examine banks is a visitorial power is indicated by the following passage in Morse on Banks and Banking (5 Ed.) Vol 1, p.44:

> "A state may invest the supervision of banks in a bank commissioner or other examiner, and grant to him visitorial powers over banks and impose upon him the duty of examination of banks, the investigation of their solvency, and the winding up of their affairs if the protection of the depositors demands such action. He may examine the records of the bank, change the personnel of the board of directors, and establish rules for the proper discharge of his duty. His power should not be unduly narrowed by construction, nor can he be removed by the governor."

In Guthrie v. Harkness, 199 U.S. 148, a stockholder in a national bank applied for leave to inspect the books, accounts and loans of the bank for the purpose of ascertaining the value of his stock. Upon refusal to allow such inspection, he instituted proceedings to compel the officers of the bank to permit him to examine the books. One of the defenses made on behalf of the officers was that the common law right of the stockholder to inspect the books of a corporation is cut off as to stockholders of national banks by Section 5241 of the Revised Statutes, which provides that "No association shall be subject to any visitorial powers other than such as are authorized by this title or are vested in the courts of justice." The court held that the stockholder was entitled to examine the books of the bank and that the officers thereof must permit him to do so.

Mr. Justice Day said:

"But, it is said, the right of the shareholder to inspect the books is cut off by section 5241, providing 'no association shall be subject to any visitorial powers other than such as are authorized by this Title, or are vested in the courts of justice. 'We are unable to find any definition of 'visitorial powers' which can be held to include the common law right of the shareholder to inspect the books of the corporation * * *.

* * * * * * * * * * *

"The meaning of this section was before Judge Baxter in the case of First Nat. Bank of Youngstown v. Hughes, 6 Fed. Rep. 737, and of the meaning of the term 'visitorial powers', as used in section 5241, that learned judge said:

> 'Visitation, in law, is the act of a superior or superintending officer, who visits a corporation to examine into its manner of conducting business, and enforce an observance of its laws and regulations. Burrill defines the word to mean "inspection; superintendence; direction; regulation." '

"At common law the right of visitation was exercised by the King as to civil corporations and as to eleemosynary ones by the founder or donor. 1 Cooley's Blackstone, 481. 'In the United States the legislature is the visitor of all corporations created by it, where there is no individual founder or donor, and may direct judicial proceedings against such corporations for such abuses or neglects as would at common law cause forfeiture of their charters.' 1 Cooley's Blackstone, 482, note.

"In the case before us the Supreme Court of Utah quotes from Merrill on Mandamus as follows:

> 'Visitors of corporations have power to keep them within the legitimate sphere of their operations, and to correct all abuses of authority, and to nullify all irregular proceedings. In America there are very few corporations which have private visitors, and in the absence of such, the State is the visitor of all corporations.'

"In no case or authority that we have been able to find has there been a definition of this right, which would include the private right of the shareholder to have an examination of the business in which he interested, and the right of discovery of the methods and means by which the agents of the corporation are conducting its affairs. The right of visitation being a public right, existing in the State for the purpose of examining into the conduct of the corporation with a view to keeping it within its legal powers, Congress had in mind in passing this section that in other sections of the law it had made full and complete provision for investigation by the Comptroller of the Currency and examiners appointed by him, and, authorizing the appointment of a receiver, to take possession of the business with a view to winding up the affairs of the bank. It was the intention that this statute should contain a full code of

"provisions upon the subject, and that no state law or enactment should undertake to exercise the right of visitation over a national corporation. Except in so far as such corporation was liable to control in the courts of justice, this act was to be the full measure of visitorial power."

The Board's power to exercise general supervision over Federal reserve banks and examine into their affairs is quite similar to the corresponding power of the Comptroller of the Currency over national banks, and it would seem that the nature and purpose of the Board's power must be practically the same as that of the Comptroller's.

In the case of State v. Morehead, (Nebr.) 155 N. W. 879, the court in discussing the right of the State Banking Board to refuse to issue a charter to a savings bank said:

"When the general rule of statutory construction is applied and section 16 is considered in connection with the other provisions, it must be held that the board is vested with authority not only to correct evils that may creep into the management of an existing bank, but to guard against dangers, that may threaten institutions about to be formed.

"'The power to compel, beforehand, co-operation, and thus, it is believed, to make a failure unlikely and a general panic almost impossible, must be recognized, if government is to do its proper work, unless we can say that the means have no reasonable relation to the end. Noble State Bank v. Haskell, 219 U.S. 104, 112, 31 Sup. Ct. 186, 188 (55 L. Ed. 112, 32 L.R.A.(N.S.) 1062, Am. Cas. 1912A,487).'

"* * * We think the intention of the Legislature was to vest the banking board with general control and with authority to do all things reasonably necessary for the protection of depositors throughout the state. The Board also stands in the nature of a trustee for this guarantee fund, and it is its duty to take such precautions as may be necessary to protect its integrity. The terms 'general supervision and control' vest the banking board with duties of a very high order, and they are not to be perfunctorily discharged, but to be administered with the highest degree of intelligence and discretion.

"It is customary for Legislatures to grant to administrative bodies of this character the power to adopt rules, by-laws, and regulations reasonably necessary to carry out the purpose for which they are created, and this grant is not an improper delegation

"of authority. Blue v. Beach, 155 Ind., 121, 56 N.E. 89, 50 L.R.A. 64, 80 Am. St. Rep. 195 and cases cited. This is held generally to be the rule in matters coming within the police power of the state. That the banking business comes within that power is no longer an open question.

"'The police power extends to all the great public needs (Camfield v. United States, 167 U.S. 518, (17 Sup. Ct. 864, 42 L. Ed. 260) and includes the enforcement of commercial conditions such as the protection of bank deposits and checks drawn against them by compelling cooperation so as to prevent failure and panic.' (Noble State Bank v. Haskell, 219 U. S. 104)

"The business of banking coming within the police power of the state, the same rule of construction may be applied to banking acts and to rules and regulations established by banking boards as applies to acts creating other administrative bodies coming within the police power. The Supreme Court of Judicature of Indiana, in discussing this phase of the question, in Blue v. Beach, supra, says:

> " 'While it is true that the character or nature of such boards is administrative only, still the powers conferred upon them by the Legislature, in view of the great public interests confided to them, have always received from the courts a liberal construction, and the right of the Legislature to confer upon them the power to make reasonable rules, by-laws, and regulations, is generally recognized by the authorities.'"

The case of Great Northern Railway Company v. Snohomish County, 48 Wash. 478, 93 Pac. 924, involved the construction of a State statute requiring the State Board of Tax Commissioners to exercise "general supervision" over assessors and county boards of equalization and the assessment of taxable property in order to secure equality in taxation. The case turned upon the proper meaning of the term "general supervision" - whether it authorized the Commissioners to act merely in an advisory capacity or whether it authorized them to classify inter-county railroads and fix the value thereof for the purpose of taxation. The court held that the statute authorized the Commissioners to classify inter-county railroads and fix the value thereof for purposes of taxation; that the words "general supervision" imply something

more than a mere power to advise and suggest; that they confer authority to oversee and review the acts and correct errors of those over whom the right of supervision is granted. In the course of the opinion the court said:

> "While these several provisions bear more or less directly on the question under consideration, the case turns principally on the meaning of the term 'general supervision' in the act defining the powers and duties of the state board of tax commissioners. * * * The state board of tax commissioners is given general supervision over assessors and county boards of equalization, to the end that all taxable property shall be placed on the assessment rolls and equalized as between the different counties and municipalities, so that equality of taxation shall be secured according to the provisions of law. What is meant by 'general supervision'? Counsel for respondents contend that it means to confer with, to advise, and that the board acts in an advisory capacity only. We cannot believe that the Legislature went through the idle formality of creating a board thus impotent. Defining the term 'general supervision' in Vantongeren v. Hefferman, 5 Dak. 180, 38 N.W. 52, the court said: 'The Secretary of the Interior, and under his direction, the Commissioner of the General Land Office, has a general "supervision over all public business relating to the public lands." What is meant by "supervision"? Webster says supervision means "to oversee for direction; to superintend; to inspect; as to supervise the press for correction." And, used in its general and accepted meaning, the Secretary has the power to oversee all the acts of the local officers for their direction, or, as illustrated by Mr. Webster, he has the power to supervise their acts for the purpose of correcting the same; and the same power is exercised by the Commissioner under the Secretary of the Interior. It is clear, then, that a fair construction of the statute gives the Secretary of the Interior, and under his direction, the Commissioner of the General Land Office, the power to review all the acts of the local officers, and to correct, or direct a correction of, any errors committed by them. Any less power than this would make the "supervision" an idle act - a mere overlooking without power of correction or suggestion.' Defining the like term in State v. F.E. & M.V. R.R. Co., 22 Nebr. 313, 35 N.W. 118, the court said: 'Webster defines the word "supervision" to be "the act of overseeing; inspection; superintending." The board therefore is clothed with the power of overseeing, inspecting, and superintending the railways within the state, for the purpose of carrying into effect the provisions of this act, and they are clothed with the power to prevent unjust discrimination against either persons or places.' It seems to us that the term 'general supervision' is correctly defined in these cases. Certainly a person or officer who can only advise or suggest to another has no general supervision over him, his acts or his conduct."

Similarly, it would seem that the Board's power to exercise "general

supervision" over the Federal reserve banks would include the power to require the Federal reserve banks to carry out the purposes of the Act and to check any practices which would be detrimental to the public interest or inconsistent with the purposes of the Act. Certainly, the Board's power of general supervision should not be construed in such a way as to "make the 'supervision' an idle act - a mere overlooking without power of correction or suggestion."

On the other hand, there are some cases indicating the limitations on this power of general supervision.

One of such cases is that of State v. Bronson, (Mo.) 21 S.W.1125. The constitution of Missouri provides that "The supervision of instruction in the public schools shall be vested in a board of education whose powers and duties shall be prescribed by law." The legislature passed a law creating a commission to purchase the books necessary for use in the schools. This law was objected to by the directors of a school district as being unconstitutional on the ground that it was in violation of the powers vested in the board of education by the constitution.

The court held that the selection and purchase of the school books does not come within the fair meaning of the words "the supervision of instruction" and the law does not violate the constitutional provision. In so holding the court said:

> "With such a general system of public schools it must be evident that when the constitution says the supervision of instruction shall be vested in the state board of education, it does not mean that this board shall enter into the details of giving instruction or carrying on the schools. All this is and may be left to subordinate officers. It means no more than a general oversight over the matter of instruction."

In the case of Roanoke Cemetery Co. v. Goodwin, 101 Va. 605, 44 S.E. 769, the lower court had reviewed the reasonableness of regulations prescribed by the cemetery association for the conduct of its business and the fees charged for opening graves and had issued a decree whereby the court undertook to prescribe its own rules and regulations for the management of the affairs of the company, even going to the extent of determining the fund out of which the salary of the superintendent should be paid. The Supreme Court of Appeals in Virginia held that the decree exceeded the power of the court and said:

> "It is not permissible for a court to thus substitute its own business discretion and judgment for that of the company; its visitorial powers have no such scope. 1 Clark & Marshall, p. 547. "

Similarly, it might be said that the authority to exercise general supervision over the Federal reserve banks does not carry with it the duty to enter into the details of operating the banks nor the authority for the Federal Reserve Board to substitute its own business judgment and discretion for that of the directors.

Without attempting to lay down a precise definition of the Board's power of general supervision, it may be said that generally it includes the power and carries with it the duty to see that Federal reserve banks do not exceed their corporate powers; that they do not discriminate in favor of or against any class of the public or any member banks; that they preserve and protect the banking reserves of the country with which they are entrusted; that they do not do anything which may endanger their solvency or the soundness of their currency; that they carry out faithfully the purposes of the Federal Reserve Act; and that they comply in all respects with both the letter and spirit of

the law. I am further of the opinion that this power carries with it the power to require the Federal reserve banks to cease doing anything which is ultra vires which might defeat the purposes of the Federal Reserve Act or which might be detrimental to the public interest.

Moreover, this power is to be construed liberally so as to enable the Board effectively to safeguard the great public interests confided to it. Blue v. Beach, 155 Ind. 121, 45 N.E. 89. As stated in State v. Moreland, supra, "The terms 'general supervision and control' vest the banking board with duties of a very high order, and they are not to be perfunctorily discharged, but to be administered with the highest degree of intelligence and discretion."

On the other hand, I am of the opinion that this power does not carry with it either the duty or the power to interfere in the details of the operation of the Federal reserve banks or to substitute the Board's own business judgment and discretion for that of the directors of the Federal reserve banks.

It does, however, include the power to check any actions on the part of the Federal reserve banks which would nullify or impair the effective exercise of any lawful powers of the Federal Reserve Board or which would constitute an evasion of any control which the Federal Reserve Board is authorized to exercise over the general credit policies of the System as a whole. Within this class of actions which are subject to regulation under the Board's general supervisory power would clearly be included international dealings in gold, which might tend to affect or impair the effectiveness of the rediscount rate, which is expressly made subject to review and determination by the Federal Reserve Board, or which would nullify the effect of the Board's restrictions on the open market operations of the banks.

THE RELATIVE FUNCTIONS OF THE BOARD AND THE BANKS AS SHOWN BY LEGISLATIVE HISTORY.

That these views, based upon a purely legal interpretation of the Board's powers, are in accordance with the intent of Congress at the time it enacted the Federal Reserve Act appears from the following passages in the report on the original Federal Reserve Act submitted to the House of Representatives by Mr. Glass, on behalf of the Banking and Currency Committee, under date of September 9, 1913 (pages 16, 18, 19, 42 and 46):

> "In order that the banks may be effectively inspected, and in order that they may pursue a banking policy which shall be uniform and harmonious for the country as a whole, the committee proposes a general board of management intrusted with the power to overlook and direct the general functions of the banks referred to. To this it assigns the title of 'The Federal reserve board.'"

* * * * * * *

> "The only factor of centralization which has been provided in the committee's plan is found in the Federal reserve board, which is to be a strictly Government organization created for the purpose of inspecting existing banking institutions and of regulating relationships between Federal reserve banks and between them and the Government itself. Careful study of the elements of the problem has convinced the committee that every element of advantage found to exist in cooperative or central banks abroad can be realized by the degree of cooperation which will be secured through the reserve-bank plan recommended, while many dangers and possibilities of undue control of the resources of one section by another will be avoided. Local control of banking, local application of resources to necessities, combined with Federal supervision, and limited by Federal authority to compel the joint application of bank resources to the relief of dangerous or stringent conditions in any locality are the characteristic features of the plan as now put forward. The limitation of business which is proposed in the sections governing rediscounts, and the maintenance of all operations upon a footing of relatively short time will keep the assets of the proposed institutions in a strictly fluid and available condition, and will insure the presence of the means of accommodation when banks apply for loans to enable them to extend to their clients larger degrees of assistance in business. It is proposed that the Government shall retain a sufficient power over the reserve banks to enable it to exercise a directing authority when necessary to do so, but that it shall in no way attempt to carry on through its own mechanism the routine operations of banking which require detailed

knowledge of local and individual credits and which determine the actual use of the funds of the community in any given instance. In other words, the reserve-bank plan retains to the Government power over the exercise of the broader banking functions, while it leaves to individuals and privately owned institutions the actual direction of routine."

* * * * * * *

"In this section provision has been made for the creation of a general board of control acting on behalf of the national Government for the purpose of over-seeing the reserve banks and of adjusting the banking transactions of one portion of the country, as well as the Government deposits therein, to those of other portions."

"(e) In paragraphs (e), (f), (g), (h), and (i) are conveyed powers which are largely self-explanatory and about which there can be little or no question, granting the general idea of effective Government oversight through a Federal reserve board or some similar organization."

The power of carrying on the regular routine every-day business of the Federal reserve banks, therefore, and of determining the local policies was entrusted to their respective boards of directors, but the Federal Reserve Board was created as "a general board of management" entrusted with the power to overlook and direct the general functions of the banks in order that the Board, on behalf of the Government, might retain some power over the exercise of the "broader banking functions" affecting the country as a whole.

That the open market operations of the Federal reserve banks and their transactions with foreign central banks in gold, credits and bills of exchange is a function affecting the country as a whole, seems perfectly obvious, and it would seem to follow that the Board was intended to have a control over all such operations. This will appear more clearly from a consideration of the history and nature of such transactions.

HISTORY AND NATURE OF OPEN MARKET FUNCTIONS.

The report of the House Banking and Currency Committee (pp. 52 and 53) discusses section 15 of the original Federal Reserve Bill, which later became section 14 of the Federal Reserve Act as follows:

"Section 15.

"It will have been observed that the transactions authorized in section 14 (now section 13 of the Federal Reserve Act) were entirely of a nature originating with member banks and involving a rediscount operation. It is clearly necessary to extend the permitted transactions of the Federal reserve banks beyond this very narrow scope for two reasons:

"1. The desirability of enabling Federal reserve banks to make their rate of discount effective in the general market at those times and under those conditions when rediscounts were slack and when therefore there might have been accumulation of funds in the reserve banks without any motive on the part of member banks to apply for rediscounts or perhaps with a strong motive on their part not to do so.

"2. The desirability of opening an outlet through which the funds of Federal reserve banks might be profitably used at times when it was sought to facilitate transactions in foreign exchange or to regulate gold movements.

"In order to attain these ends it is deemed wise to allow a reserve bank, first of all, to buy and sell from anyone whom it chooses the classes of bills which it is authorized to rediscount. The reserve bank evidently would not do this unless it should be in a position which, as already stated, furnished a strong motive for so doing. Outright purchases in the open market would of course require the payment of the face of the paper less discount, whereas rediscount operations would require simply the holding of a reserve of 33 1/3 per cent behind the notes issued or deposit accounts created in the course of the rediscount operation. Apart from this fundamental permission, it was deemed wise to allow the banks to buy coin and bullion and borrow or loan thereon and to deal in Government bonds. The power granted in subsection (d) to fix a rate of discount is an obvious incident to the existence of the reserve banks, but the power has been vested in the Federal reserve board to review this rate of discount when fixed by the local reserve bank at its discretion. This is intended to provide against the possibility that the local bank might be establishing a dangerously low rate of interest, which the reserve board,

familiar as it would be with credit conditions throughout the country, would deem best to raise.

"The final power to open and maintain banking accounts in foreign countries for the purpose of dealing in exchange and of buying foreign bills is necessary in order to enable a reserve bank to exercise its full power in controlling gold movements and in facilitating payments and collections abroad."

The open market powers granted to Federal reserve banks under Section 14, therefore, were designed primarily to enable the Federal reserve banks to make their discount rates effective, to facilitate transactions in foreign exchange, and to regulate and control gold movements. The banks were given power to fix discount rates subject to review and determination by the Federal Reserve Board, and it was explained that the power to review discount rates was vested in the Federal Reserve Board in order to provide against the possibility that a Federal reserve bank might establish a dangerously low rate which the Federal Reserve Board, in view of general credit conditions throughout the country, might consider inadvisable.

Having the power to review and determine rediscount rates it would seem necessary that the Federal Reserve Board should also have power to review, regulate, and restrict any transactions which might have a bearing on the effectiveness of the rediscount rate.

Obviously, the investment of Federal reserve funds abroad would have a bearing on the effectiveness of the rediscount rate and the Federal Reserve Board was given specific power to regulate, limit and restrict the purchase and sale of bills of exchange. While no specific power to control gold movements was given to the Federal Reserve Board, it would seem clear that the Federal Reserve Board was intended, in the exercise

of its general supervisory power, to have some control over gold transactions which might have a bearing on the effectiveness of the rediscount rate or which might affect general credit conditions in this country. This is entirely consistent with the theory that the Boards of Directors of the Federal reserve banks are intended to manage the local transactions of the Federal reserve banks, but that the Federal Reserve Board is given power to control any transactions which might have a bearing on general credit conditions in this country, or in the position of this country in the international money market.

RELATIONS BETWEEN OPEN MARKET TRANSACTIONS, REDISCOUNT RATES AND GOLD RESERVES.

The intimate relation between open market transactions, the rediscount rate and international gold movements is further illustrated by a report submitted to the Federal Reserve Board under date of October 12, 1915, by Messrs. Warburg and Delano. The Board at that time had been giving very careful study to a proposal made by Mr. McAdoo, Secretary of the Treasury, to have the Federal reserve banks establish branches or agencies in Latin-American countries; and the above mentioned report discussed the open market powers of the Federal reserve banks in great detail, pointed out the proper scope and purpose of such transactions, and the disadvantage of having too large a proportion of the Federal reserve banks' funds invested in foreign countries. This entire report is very illuminating and the following passage is of especial interest in this connection:

"The Federal Reserve Banks have been organized as custodians and conservators of the reserve money of the member banks. The law permits member banks to count as part of their reserve the balances kept by them with these Federal Reserve Banks, and it is the first duty of the Federal Reserve Banks to maintain their funds in a condition so liquid that their member banks may confidently rely upon the ability of the Reserve Banks to provide gold and credit when required. This function of the Federal Reserve Banks is at no time to be considered lightly, and in times of stress involves grave responsibilities and difficulties. It is from this point of view that the law has imposed very distinct restrictions as to the character of the investments which may be made by the Federal Reserve Banks, permitting only a certain proportion of their funds to be normally invested and requiring that such investments as are made be essentially of a self-liquidating character, and of a short maturity. It would be unsafe and would shake the foundations of confidence on the part of the member banks as well as of other nations should Federal Reserve Banks use a substantial portion of their resources for investment in Latin American credits.

"Such procedure would run counter to all banking practice in those countries where banks of the character of the Federal Reserve Banks have been in successful operation for generations. Neither the Bank of England, the German Reichsbank, the Banque of France, nor any other of the government banks of the less important countries has ever adopted such a policy. The operations of those banks are primarily confined to transactions at home, and foreign exchange transactions are engaged in only as far as they may be considered necessary for the protection of the gold holdings of these government banks. The leading government banks normally maintain a substantial holding of ninety-day bills on such foreign countries as are apt to become important creditor nations from time to time, but these bills are drawn only on such countries as have a well-established gold standard, well-developed discount facilities, and a broad market where these bills can be promptly resold. The object of these foreign holdings can best be illustrated by a concrete case, e.g., should the Bank of the Netherlands find that exchange on London advanced to a point where gold began to move from Holland to England, it would offer for sale drafts on London in order to counteract this movement. When its English cash balance had been exhausted, the Bank of the Netherlands would rediscount in London the long bills that it might previously have accumulated and thus create new balances with which to stop the outflow of gold.

"Such foreign bills are taken only on the few foremost financial powers. It is to be expected that American bankers' acceptances will in the future, when peace shall have been restored, become one of the privileged investments of these government banks. In order to maintain their 'position' in the foreign exchange market, it is necessary for government banks to renew from time to time their foreign paper as it matures, and it is for this purpose that they use accounts with correspondents in those few countries, none but the strongest firms being selected to act in this capacity. These firms or banks are permitted to buy only first class banking paper, and they endorse this paper to the government banks so that such government banks do not run any risk of loss of capital in the transactions and so that the government banks hold only paper which can at any time be resold in the open market or to the foreign government banks if need be.

"It was this function of foreign correspondents or agents that the writers of the Federal Reserve Act had in mind when they provided that Federal Reserve Banks should have the right, with the consent of the Federal Reserve Board,

> " 'to open and maintain banking accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may deem best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell with or without its indorsement, through such correspondents or agencies, bills of exchange arising out of actual commercial transactions which have not more than ninety days to run and which bear the signature of two or more responsible parties.'

"For operations as above described the powers granted by the Act will no doubt be availed of to good advantage, when normal conditions shall have been restored in the important foreign exchange markets.

"Your committee wishes to emphasize the fact that the purpose of this paragraph was to give to the Federal Reserve Banks a greater strength and additional liquidity by enabling them to maintain a secondary gold reserve and to possess themselves of assets upon which the Federal Reserve Banks could realize in case of need without being forced to contract the credit facilities granted at home - the liquid element of these foreign investments and the additional protection that they would give to the Federal Reserve System being the essential ground for permitting Federal Reserve Banks to enter a foreign field."

The following passage from a preliminary report on this subject prepared by Mr. Warburg under date of October 4, 1915, also throws much light on the history and purpose of Section 14 of the Federal Reserve Act:

"When dealing with interpretations of the Act, a great deal has often been said concerning the 'intention of the writers of the law'. Inasmuch as paragraph (e) of Section 14 has been bodily taken over from the Aldrich Plan, we have to go beyond the writers of the Federal Reserve Act in order to find the true intent of this paragraph, and inasmuch as Senator Aldrich consulted me concerning this particular phase of the intended act, and inasmuch as I suggested to Senator Aldrich the insertion of this very paragraph, I may be pardoned for venturing to explain what its original intention was.

"The two paragraphs read as follows:

Section 14(e) of the Federal Reserve Act provides that every Federal Reserve Bank shall have power:

"with the consent of the Federal Reserve Board, to open and maintain banking accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may deem best.

for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange arising out of actual commercial transactions which have not more than ninety days to run and which bear the signature of two or more responsible parties.'

Section 36 of the Aldrich Plan reads:

"National Reserve Association to have power

to open and maintain banking accounts in foreign countries; to establish agencies in foreign countries for the purpose of purchasing, selling and collecting foreign bills of exchange; to buy and sell, with or without its indorsement, through such correspondents or agencies, checks or prime foreign bills arising out of commercial transactions having not exceeding 90 days to run and bearing the signature of two or more responsible parties.'

"It will be seen that the only substantial change was the insertion of the words 'bill of exchange' where the Aldrich Plan read 'foreign bills of exchange' and 'prime foreign bills'.

"From actual operation (having been active in several banks

"in foreign countries acting as correspondents or agents for government banks in other countries) I was in a position to appreciate from my own experience the importance of the functions of foreign correspondents or agents, and was anxious to secure the advantages of such connections for our future financial system. The operations of these foreign agents for their government banks are substantially as follows:

"Let me choose the Bank of the Netherlands as an illustration, though practically all important government banks have been operating on similar lines.

"There will be certain times when, for economic reasons, through the movement of products from or to the Netherlands into or from other countries, or for extraordinary reasons, exchange on Holland will move up to the gold exporting point or down to the gold importing point. When the point is reached where gold may leave the country, the Bank of the Netherlands has two main means of protecting itself; one is by increasing the discount rate, which measure will result in higher interest rates apt to attract foreign money into Holland and thereby to counteract the flow of money from the country. The other is to sell from its portfolio bills on foreign countries in order to create balances in those countries and thereby provide means of payment without shipping the yellow metal. It, therefore, has been the policy of foreign government banks to acquire foreign bills of exchange on such countries as are apt to be creditor nations from time to time and such countries only as have safe gold standards and enjoy first class banking credit. These purchases of foreign exchange on such countries are being carried on whenever exchange is low or when interest rates in the home country are so low that it would seem prudent for the government bank to withdraw its funds from active employment at home and invest the funds thus withdrawn in foreign countries, whence they can be called back whenever rates become active at home and whenever the influence of the government bank may be used to advantage in preventing home rates from becoming burdensome to the borrowing community.

"When acquiring a ninety day draft on a British bank, the Bank of the Netherlands will draw interest on this bill at the discount rate; but when the bill matures or if the Bank of the Netherlands acquires checks on London, it creates a balance which needs to be converted into an interest bearing investment. These balances will then be employed by the correspondents or agencies (whichever name we may give to them) for the purchase of other ninety day drafts on London. According to its requirements, the Bank of the Netherlands will renew from time to time its foreign investments. The Bank

of the Netherlands considers these foreign holdings as a secondary gold reserve and continues them almost perpetually, with such casual interruptions as may become necessary for the protection of its own gold holdings.

"It was the consideration of these conditions that led to the insertion in the Aldrich draft of the clause above quoted, and it will now become apparent what was meant when it was provided that the National Reserve Association - or the Federal Reserve Banks - should have power to 'open and maintain banking accounts in foreign countries * * *, establish agencies in such countries * * * for the purpose of purchasing, selling and collecting bills of exchange' and that they should be able to 'buy and sell with or without its indorsement, through such correspondents or agencies, bills of exchange * * *'. In case of a 'pinch' the Bank of the Netherlands was to be in a position of ordering its correspondent to rediscount with the Bank of England or in the open market millions of its holdings of British acceptances so as to enable the Bank of the Netherlands to draw a check against the balance so produced and so to protect its gold. That is why it was stipulated that the bills to be purchased by these agents should be 'prime bills' and should not run beyond ninety days and should bear the signature of two or more responsible parties, so that these bills should be current bills that the correspondents should be able to sell freely at all times and bills on which a loss should practically be excluded.

"It ought to be stated that the foreign governments select the strongest possible firms in foreign countries to act for them as agents, and that they invariably buy these bills with the indorsement of their agent (or correspondent) so that they could lose only in case, not only the foreign correspondent or agent should fail, but also the two additional signatures on the bill.

"I am well aware of the fact that these banking habits have developed as a protection in times of peace but that in times of war these large foreign balances may be a source of some anxiety. It must be borne in mind, however, that government banks normally work in times of peace and that these methods of protecting their country against acute gold withdrawals or against the tendency of too low rates of interest have effectually met many an acute emergency, and furthermore that even in times of war these balances have eventually been paid. I might draw attention to the fact that a year ago, when we were called upon to meet our large debts abroad, it would have been a great protection for us if at that time balances could have been made available in London to meet this first onrush.

"My object in reviewing the origin and original intent of this paragraph is to show that this clause was inserted for the sole purpose of providing an additional piece of machinery for the protection of the Federal Reserve System. Clearly, no other intention was underlying this section!"

The question whether the Federal reserve banks should establish branches or agencies in Latin American countries was submitted to the Governors' Conference, the Conference of Federal Reserve Agents and the Federal Advisory Council, and, after obtaining the views of these three different bodies, a further report was submitted to the Federal Reserve Board under date of January 8, 1916, by a committee consisting of Governor Harding and Messrs. Delano and Warburg. This final report reads in part as follows:

"Your Committee is happy to report that complete agreement was found to exist in all three bodies with the principles expressed by the Board at its meeting on October 27th, the substance of which was published on that day in a notice (Mimeograph 385) of which a copy is appended hereto. * * * It is the first duty of the Federal reserve banks to maintain their funds in a condition so liquid that their member banks may confidently rely upon the ability of the Federal reserve banks to provide gold and credit when required. This function of the Federal reserve banks is at no time to be considered lightly and in times of stress involves grave responsibilities and difficulties. * * * It would be unsafe and would shake the foundation of confidence on the part of the member banks as well as of other nations, should Federal reserve banks use a substantial portion of their resources for investment in Latin-American credit. Such procedure would run counter to all banking practices in those countries where banks of the character of the Federal reserve banks have been successfully operated for generations * * *. The operations of these banks are primarily confined to transactions at home, and foreign exchange transactions are engaged in only as far as they may be considered necessary for the protection of the gold holdings of these Government banks. * * * (Discussion of operations of European Central banks). In order to maintain their 'position' in the foreign exchange market, it will be necessary for Government banks to renew from time to time their foreign paper as it matures, and it is for this purpose

that they use accounts with correspondents in those foreign countries, none but the strongest firms being selected to act in this capacity. * * * It was this function of foreign correspondents or agencies that your committee is confident the writers of the Federal Reserve Act had in mind when they provided that the Federal reserve banks should have the right, with the consent of the Federal Reserve Board, to exercise the powers conferred under Section 14 (e) * * * . Your committee has no doubt that the purpose of this paragraph was to give to the Federal reserve banks greater strength and additional liquidity by enabling them to maintain a secondary gold reserve and to possess themselves of assets upon which the Federal reserve banks could realize in case of need without being forced to contract the credit facilities granted at home - the liquid element of these foreign investments and the additional protection that they would give to the Federal Reserve System being the essential ground for permitting Federal reserve banks to enter a foreign field. * * * Should Federal reserve banks be empowered to lend to foreign Governments notwithstanding the law distinctly provides that Federal reserve banks can now purchase only United States Government securities and warrants of United States municipalities, carefully circumscribed and having a maturity of not exceeding six months ? * * * Should Federal reserve banks be allowed to embarrass the Government by being themselves important creditors of foreign Governments in case of war with, or revolution in, such countries? Your committee is very positive in its view that such enlarged powers should not be granted; * * * "

While these reports arose out of a controversy entirely different from, and extraneous to, the question now under consideration, they serve to show the intimate connection between the open market powers of the Federal reserve banks, the effectiveness of the rediscount rate, and the protection of the gold reserves of the Federal Reserve System.

They show clearly that one of the most important purposes of the rediscount rate and the open market purchase of bills of exchange is to protect the gold reserves of the Federal Reserve System. Over the rediscount rates and the open market transactions the Federal Reserve

Board is given a great measure of control. To say that the Federal Reserve Board could exercise this control over rediscount rates and open market transactions with a view of protecting the gold reserves of the Federal Reserve System but that it could do nothing to prevent the Federal reserve banks from engaging in international transactions in gold in such a way as to impair the gold reserves would be to give the Federal Reserve Act an interpretation which clearly would defeat the will of Congress.

Respectfully,

Walter Wyatt
General Counsel

WW-WLH-OMC-SAD

FEDERAL RESERVE BOARD

WASHINGTON

X-4981

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 22, 1927

SUBJECT: Expense, Main Line, Leased Wire System, September, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X-4981-a and X-4981-b, covering in detail operations of the main line, Leased Wire System, during the month of September, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

TO GOVERNORS OF ALL F.R.BANKS EXCEPT CHICAGO.

Enclosures:

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF SEPTEMBER, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F.R.Banks (1)	Total	Treasury Department Business	War Finance Corporation Business	Net Federal Reserve Bank Business	Per cent of total bank Business (*)
Boston	35,464	2,414	37,878	6,159	-	31,719	3.65
New York	156,254	-	156,254	11,114	-	145,140	16.71
Philadelphia	42,423	2,358	44,781	5,942	-	38,839	4.47
Cleveland	82,230	3,353	85,583	7,523	-	78,060	8.99
Richmond	48,705	4,711	53,416	7,037	-	46,379	5.34
Atlanta	64,808	3,948	68,756	8,944	-	59,812	6.89
Chicago	111,777	3,669	115,446	10,734	-	104,712	12.05
St. Louis	80,342	3,280	83,622	7,694	-	75,928	8.74
Minneapolis	37,069	3,813	40,882	4,568	-	36,314	4.18
Kansas City	81,413	3,878	85,291	8,329	-	76,962	8.86
Dallas	71,668	7,007	78,675	5,120	-	73,555	8.47
San Francisco	108,899	3,473	112,372	11,187	-	101,185	11.65
Total	921,052	41,904	962,956	94,351	-	868,605	100.00
Board			398,148	119,711		278,437	
			1,361,104	214,062		1,147,042	
			100.00%	15.73%		84.27%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-4981-b)

(1) Number of words sent by New York to other F. R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, SEPTEMBER, 1927.

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$260.00	$1.00	-	$261.00	$709.23	$261.00	$448.23
New York	1,070.97	1.00	-	1,071.97	3,246.93	1,071.97	2,174.96
Philadelphia	225.00	-	-	225.00	868.57	225.00	643.57
Cleveland	296.66	-	-	296.66	1,746.85	296.66	1,450.19
Richmond	232.00	-	-	232.00	1,037.62	232.00	1,010.29(&)
Atlanta	270.00	-	-	270.00	1,338.80	270.00	1,068.80
Chicago	4,062.68(#)	-	-	4,062.68	2,341.44	4,062.68	1,721.24(*)
St. Louis	205.00	-	-	205.00	1,698.27	205.00	1,493.27
Minneapolis	193.73	-	-	193.73	812.22	193.73	618.49
Kansas City	275.64	-	-	275.64	1,721.59	275.64	1,445.95
Dallas	250.00	-	-	250.00	1,645.81	250.00	1,395.81
San Francisco	370.00	-	-	370.00	2,263.71	370.00	1,893.71
Federal Reserve Board	-	-	$15,343.60	15,343.60	-	-	-
Total	$7,711.68	$2.00	$15,343.60	$23,057.28	$19,431.04	$7,713.68	$13,643.27
				3,626.24(a)			1,721.24(b)
				$19,431.04			$11,922.03

(&) Includes $204.67 for branch line business transmitted over main line circuit.
(#) Includes salaries of Washington Operators.
(*) Credit
(a) Received $3,626.24 from Treasury Department covering business for the month of September, 1927.
(b) Amount reimbursable to Chicago.

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For release in morning papers,
Friday, October 28, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of September and October, as contained in the forthcoming issue of the Federal Reserve Bulletin.

Industrial and trade activity increased less in September than is usual at this season of the year and continued to be in smaller volume than a year ago. The general level of wholesale commodity prices showed a further rise, reflecting chiefly price advances for agricultural commodities.

Production.

The Federal Reserve Board's indexes of both manufacturing and mineral production, in which allowance is made for usual seasonal variations, decreased between August and September. Production of iron and steel was in smaller volume in September than in any month since 1925. There were also decreases from August to September in the output of nonferrous metals, automobiles, and rubber tires, while the textile and shoe and leather industries continued active. The production of bituminous coal showed about the usual seasonal increase in September and October, but continued in smaller volume than during the same period of other recent years. The output of anthracite was considerably reduced during September and the first half of October, following an increase in August, and the weekly output of crude petroleum has decreased slightly since the early part of August. The value of building contracts awarded continued somewhat smaller during September and the first three weeks of October than during the corresponding period of 1925 or 1926; declines occurred in contracts for residential, commercial, industrial, and educational buildings, while contracts for pub-

lic works and public utilities were larger in September than in the corre - ponding month of any previous year.

Crop conditions improved in September and the Department of Agriculture's estimates for October 1 indicate larger yeilds of most grain crops than were expected a month earlier. The estimate for the corn crop was increased by 146,000,000 bushels and was only 43,000,000 bushels smaller than the yield in 1926. Wheat production is expected to be 34,000,000 bushels larger than last year, while the estimated cotton crop of 12,678,000 bales is more than 5,000,000 bales below last year's yield.

Distribution.

Trade of wholesale and retail firms increased in September by somewhat less than the usual seasonal amount. Compared with a year ago, sales of wholesale firms in nearly all lines, except shoes and drugs, were smaller. Sales of department stores were in about the same volume, and those of mail order houses and chain stores were somewhat larger. Inventories of merchandise carried by reporting wholesale firms in leading lines were reduced in September and continued smaller than last year. Stocks of department stores, on the other hand, increased slightly more than is usual in September and at the end of the month were somewhat larger than a year ago.

Freight car loadings were in smaller volume during September and the first week of October than in the corresponding period of last year for all groups of commodities, except grain and grain products, of which loadings were larger than in the same period of any previous year since 1924.

Prices.

Wholesale commodity prices advanced in September for the fourth consecutive month, and the Bureau of Labor Statistics all-commodities index

rose to the highest level since last January. There were large increases between August and September in the prices of livestock, meats, and cotton, and small advances in the prices of leather, coal, and chemicals, while prices of grains, building materials, and rubber declined. During the first three weeks in October the prices of spring wheat, corn, cotton, coal, and iron and steel declined, while prices of livestock, raw wool, and rubber advanced.

Bank Credit.

Total loans and investments of member banks in leading cities showed a further increase for the four weeks ending October 19 and on that date were about $660,000,000 larger than in mid-summer. Of this growth in member bank credit about $325,000,000 represented an increase in commercial loans, a considerably smaller increase than for the same period last year, and about $335,000,000 an increase in investments and loans on securities.

At the reserve banks total bills and securities increased during the four weeks ending October 19, as is usual at this season, but were on the average about $60,000,000 below the level of the corresponding period last year. The increase, which was largely in the form of additions to the banks' holdings of acceptances, reflected chiefly an increase in member bank reserve requirements and an export demand for gold.

Some seasonal firmness in the money market in October was reflected in an increase from 3 1/8 to 3 1/4 per cent in rates on 90-day bankers' acceptances. The rate on commercial paper remained unchanged at 4 per cent.

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CREDIT NATURE OF COLLECTION ITEMS.

(Article in 13 Virginia Law Register, N.S.,296)

In an able article appearing in the May, 1927 issue of the Virginia Law Register, Mr. George Bryan considers the trust nature of the proceeds of collection of items sent by one bank to another for collection, and without attempting to consider at length the reason and principle of the question, concludes that the courts of Virginia, among others, strongly favor the trust theory, while in North and South Carolina the items are considered a simple debt.

This article, without attempting citation of supporting authority at length will attempt a consideration of the reason and principle controlling the question.

TWO METHODS.

In general there are two methods utilized between banks for the collection of checks, known as the reciprocal accounts method and the remittance method.

In the reciprocal accounts method the sendee bank, upon collection, credits the forwarding bank, and balances between the two are settled from time to time on demand.

In the remittance method, the sendee bank, upon collection, is required to make immediate remittance. By banking practice this remittance usually takes the form of an evidence of indebtedness. A check or draft may be drawn by the sendee bank on itself and transmitted to the forwarding bank, or the sendee may draw a check or draft payable

to the forwarding bank and draw on funds on deposit by the sendee with some third bank more conveniently located to the forwarding bank and to which the forwarding bank can more conveniently present for payment.

RELATION BEFORE COLLECTION IN BOTH METHODS.

No difficulty can arise in either the reciprocal accounts or remittance method of collection as to the relation of the forwarding and sendee banks up to the moment of collection by the latter of the forwarded items. The courts with some uniformity hold that the relation is that of Principal and Agent. This was of decision in the case of First National Bank v. Payne, 85 Va. 890 and is recognised in the late case of Federal Reserve Bank v. Peters, 139 Va. 45.

RECIPROCAL ACCOUNTS METHOD, RELATION AFTER COLLECTION.

In the reciprocal accounts method no especial difficulty can arise as to the relation of forwarding and sendee banks after collection by the latter of the forwarded items. The sendee bank collects the items, deposits the proceeds with its general assets and credits the forwarding bank.

The word "credit" gives the keynote; the proceeds of collection have become a debt due to the forwarding bank as clearly as are the funds of any other depositor, and the relation of Principal and Agent between the two banks has become that of Creditor and Debitor.

This is hornbook law. What is the reason and principle upon which it is founded? It is submitted that the elemental and distinguishing characteristic between the relation of debtor and creditor and a fiduciary relationship is, in its last analysis, the question whether credit has been given or whether no credit has been given and, by agreement or requirement of law, the beneficial ownership of the funds continues in the person who otherwise would

be a creditor of the second.

The distinguishing characteristic of the true trust character of funds is the protection of such funds imposed by law. The distinguishing characteristic of the fiduciary character of funds in the hands of an agent, servant, or like character is the protection of such funds imposed by law and contract. This protection to the cestui que trust is the continuing security and identity of such funds, the requirement that such funds must be kept separate and apart by the fiduciary from those of his own. By keeping the funds separate they are necessarily funds and not a credit extended by the cestui que trust to the fiduciary and a debt due by the latter to the former.

CONSTRUCTIVE TRUSTS - IMPRESSING FUNDS WITH A TRUST.

This requirement that trust funds be kept separate and apart from personal assets is an elemental legal duty in the fiduciary and its breach is a violation of that duty for which equity gives remedy by means of its maxim that "Equity regards that done which ought to have been done." If the fiduciary has mingled fiduciary funds with his own, has failed to keep such funds separate and apart, equity applies the maxim and secures the protection to the cestui que trust of identity and security of such funds by impressing the commingled assets with a trust.

From the bare statement of the maxim, it is obvious that failure to keep the funds separate and apart must be a legal or contract duty to give equity jurisdiction, and that where the funds are commingled by agreement, equity has no jurisdiction, in the absence of other facts, to impress the commingled assets with a trust. Equity cannot do so because there is no trust, a debt has come into being instead. There is no violation of duty for which to give remedy. Equity cannot impress a trust to cause that done which should have been done, because the commingling of the funds by the once fiduciary

was the doing of exactly that which he should have done. It was the execution of his agreement with the former cestui que trust, and by the execution of his agreement the funds have lost their fiduciary character, the parties their fiduciary relationship and the relationship has become that of debtor and creditor.

Pom. Eq. Juris. (3rd Ed.) Par. 1044

> "* * * An exhaustive analysis would show, I think, that all instances of constructive trusts properly so called may be referred to what equity denominates fraud, either actual or constructive, as an essential element, and as their final source. Even in that single class where equity proceeds upon the maxim that an intention to fulfill an obligation should be imputed, and assumes that the purchaser intended to act in pursuance of his fiduciary duty, the notion of fraud is not involved simply because it is not absolutely necessary under the circumstances; the existence of the trust in all cases of this class might be referred to constructive fraud. Certain species of constructive trusts arise from actual fraud; many others from the violation of some positive duty (italics supplied); in all the remaining instances there is, latent perhaps, but none the less real, the necessary element of that unconscientious conduct which equity calls fraud. Courts of equity, by thus extending the fundamental principal of trusts - that is, the principal of the legal estate in one and the equitable estate in another - to all cases of all cases of actual or constructive fraud and breaches of good faith, are enabled to wield a remedial power of tremendous efficacy in protecting the rights of property; they can follow the real owner's specific property and preserve his real ownership * * *."

Thus it is submitted, there can be no fiduciary relationship to assets commingled by agreement, to assets commingled not in violation of a legal or contract duty but instead commingled pursuant to a contract/right. It is submitted that the acid test in cases of collection by one bank for another is whether the sendee bank has, by agreement, express or implied, the right to commingle the proceeds of collection with its own assets, or differently phrased - since the relationship of debtor and creditor is diametrically opposed to the fiduciary relationship - whether the transaction creates rightfully a debt due by the sendee to the forwarding bank.

REMITTANCE METHOD.

In the so called remittance method of collection the sendee bank may be required to remit the proceeds of collection by shipment of cash or currency, or by transmission of a check or draft drawn on itself or on some third bank at which it has funds on deposit, or by either method in its election.

REMITTANCE BY CASH.

In the case of remittance required to be made by shipment of cash or currency, it is obvious that the agreement does not contemplate any commingling of the collected items with the general assets of the sendee, but in fact specifically provides against it. The agreement does not contemplate a substitution of credit for cash, but specifically provides that the remittance be money. In short the agreement secures to the forwarding bank the protections of identity and security of the collected funds, the hallmark of the fiduciary relation, thereby preserving the initial relationship of Principal and Agent throughout the transaction.

REMITTANCE BY CHECK OR DRAFT.

Checks and drafts are evidences of debt, and in the absence of a special stipulation to the contrary, the sendee bank would be authorized to draw such check or draft against its general assets. The transaction thus contemplates the issuance of an evidence of indebtedness against the general assets of the bank - the creation of a debt against its general assets due by the sendee to the forwarding bank. Correspondingly the sendee bank would be impliedly authorized to deposit the proceeds of collection with its own general assets to off-set or balance the debt created against such assets by the check or draft. The commingly of assets rightfully, the creation of a debt between the parties, the abandonment of the right of the cestui que trust to the security and identity of separately kept funds are not the badges of a

trust or fiduciary relation; they are the livery of debtor and creditor.

In fact there is little to distinguish the general depositor of the sendee bank from the forwarding bank in their relations with the sendee. The depositor entrusts his funds to the sendee bank of deposit, consenting that such funds be commingled with the sendee bank's general assets, becoming its creditor and accepting in lieu of the protection of security and identity of assets separately kept, the debt from the bank to him.

The forwarding bank places evidences of debt in the hands of the sendee bank, the latter collects them, and the forwarding bank consents that they be commingled with the general assets of the sendee bank, directing that in lieu of the security and identity of the proceeds of collection separately kept, an evidence of indebtedness against the general assets of the sendee bank be transmitted to it, directing that a debt to it be created out of the general assets of the sendee bank.

PSEUDO DISTINCTION.

The distinction between the two cases which suggests itself is that a bank depositor has consented that the bank become his debtor for an indefinite time while the forwarding bank, stipulating for an immediate transmission of check or draft, at best has consented that the proceeds of collection take the form of an evidence of debt only for a short and determinable period - that required for the check or draft to be transmitted to it and by it presented. Again the forwarding contract suggests that the credit extended to the sendee for this interval is conditioned on the due payment of the paper; that the paper is not a payment until honored, and if dishonored, the parties revert to their original fiduciary relationship.

The argument, in short, is that a cestui que trust can, by agreement, waive his right to the preservation of the fiduciary assets separate and

apart from the personal assets of the fiduciary and pro tem become a simple creditor of the fiduciary, but reasserting the fiduciary relationship and converting the debtor into a fiduciary again in the event of the latter's failure to pay the debt. The argument makes the mere failure of a debtor to pay a debt, by agreement, revivify or re-create a trust relationship. It invokes the doctrine of equity's presumption that that was done which should have been done, and asks equity to impress a trust on the commingled assets to preserve an equitable fiction that the funds have not been commingled, when that which was actually done with such assets - their commingling - was rightfully done pursuant to agreement and consent, and that which actually was done which should not have been done was the failure of a debtor to pay a debt, at a time when the debtor was a debtor and nothing else, was without a vestige of the character of a fiduciary. The argument needs no comment. If it is the law, reason has forsaken the law.

THE VIRGINIA CASES.

Overseers of the Poor, Etc. v. Bank of Virginia, 2 Gratt.544.

An attorney, receiving payment of a client's judgment by check, deposited it to his general bank account for collection and died with his account some few dollars overdrawn. On the question whether the client was entitled to a preferential claim on the deposit, Held;

The deposit is impressed with a trust.

Since the attorney, in the absence of an agreement to the contrary, owed his client the duty, arising from the fiduciary relation, of preserving his client's funds separate and apart from his own, his failure to do so created a constructive trust, founded on the violation of his duty, and the decision is clearly right.

It is submitted that the decision has not the slightest application to the case where the commingling of assets is not the violation of a trust or

fiduciary duty, but is, instead, the exact performance of an agreement between the parties.

First National Bank of Alexandria v. Payne, 85 Va.890.

By agreement the forwarding and sendee banks collected for and credited to each other the proceeds of collection items, settling balances between themselves from time to time. The sendee bank was a partnership. It received items for collection, thereupon one partner died and the surviving partner collected the items and credited the forwarding bank. On insolvency, Held; claim of the forwarding bank is preferential.

A careful reading of the opinion will demonstrate that the decision is based on the logic of the following chain;

(1) Before collection of the items the sendee bank was an agent of the forwarding bank.

(2) Had collection and disposition of the proceeds been made pursuant to and by authority of the agreement, the relation between the two banks would have become thereupon that of debtor and creditor.

(3) By the partner's death before collection, the firm was dissolved, and its authority to proceed with the collection and disposition of the proceeds was at an end.

(4) The act of the surviving partner in so doing was hence without authority.

(5) Being without authority it did not operate to terminate the initial relation of Principal and Agent and substitute that of Debtor and Creditor.

(6) The relation of Principal and Agent continuing, the Agent was under the duty to preserve his Principal's funds apart from his own.

(7) His failure to do so was a violation of fiduciary duty, and equity, treating that done which should have been done, will impress a trust on the commingled assets.

It will be noticed that the entire decision hinges on the violation of a fiduciary duty by a fiduciary,(agent) at a time when he was a fiduciary - the commingling of fiduciary funds with personal assets and without authority from the cestui que trust. It is submitted that the decision has no application to the case where the agreement to mingle trust assets with individual assets

is in force and operative at the time such commingling takes place. In such case there is no violation of duty, no grounds for equity's jurisdiction to attach.

The next case to be cited is stated by Mr. Bryan in the article by him heretofore mentioned, to be the leading case in Virginia and the opinion is by him characterized as an informing and well reasoned discussion of the law in point. It is certainly informing and presents interesting contrasts to the rationale of the foregoing discussion, and is indeed a landmark in the law of the subject in Virginia, in carrying and applying the constructive trust theory to a case where, it is submitted, it is not possible to discover a violation of trust duty..

Federal Reserve Bank v. Peters, 139 Va. 45.

The forwarding bank, in sending checks drawn on the sendee bank for collection, stipulated that all collections of such items made by the sendee should be remitted immediately to the forwarding bank by one of two methods;

By (1) shipment of money or currency, or

(2) by means of a draft drawn by the sendee bank on some third bank with which it had funds on deposit.

In making remittance of collections the sendee elected to do so by the second method above, by means of a draft on a third bank located near the forwarding bank and at which it had ample funds on deposit to pay the draft. The sendee failed before the draft could be presented, and on the question whether the proceeds of collection constituted a trust fund, Held: claim of forwarding bank is preferential.

Had the sendee employed the first method of remittance given it by contract - by shipment of money or currency - the case would have been one in which the hallmark of the trust relationship was present throughout the entire transaction and clearly the decision would have been right.

The sendee bank, however, adopted the second election given it by express contract with the forwarding bank, and made or attempted to make remittance by a draft drawn by it on a third bank. It is submitted that by so doing pursuant to agreement the sendee thereby terminated its relation of agent to the forwarding bank and instead became the latter's debtor. It is submitted that, having once become the latter's debtor, the mere failure of the latter to pay the debt did not and could not revivify the trust relationship initially existing between the two banks, nor charge the dead body of an insolvent's debt with the lifeblood of a trust. The sendee bank, having become the forwarding bank's debtor, remained its debtor.

The court in its opinion avoids this conclusion by premising that, under the remittance method of collection, the sendee acts throughout the transaction as the special agent of the forwarding bank. This being true it necessarily follows that as soon as the collections are made they become the property of the forwarding bank; the sendee has no implied or express authority to lend or otherwise dispose of the proceeds of collection; the draft in payment of collections is not payment until honored, and hence the draft did not upset the trust. So reasons the court from its original premise.

THE BASIC FALLACY OF THE DECISION.

It is submitted that the basic fallacy of the decision lies in its threshhold holding that, under the so-called remittance plan of collection the sendee continues in a fiduciary capacity (agent?) throughout the transaction. As has been earlier noticed, this is true only where the remittance is made in cash. Actually where the remittance is made in evidences of indebtedness pursuant to contract, credit, at least pro tem, is granted, and the designation of the plan of collection as a remittance plan is somewhat a misnomer. In its credit feature the plan is, in its legal attributes, more closely allied to the reciprocal accounts method than to the method of

transmission of proceeds of collection by shipment of cash.

It is submitted that had the court approached the question, not by determining the relation between the two banks as a premise, but had examined the contract between the two banks and the mechanics and essential incidents of the whole transaction with a view to determining from those factors the color and character of the relationship created by the parties themselves by their contract, the decision would have been otherwise.

In this case the sendee bank had the right by contract to remit by draft, and did transmit such draft to the forwarding bank. The draft was drawn on a third bankat which it had ample funds on deposit to pay the draft. These funds or credits were a part of the general assets of the sendee bank and in drawing against such general assets in the exact manner in which the forwarding bank had stipulated, the sendee created a debit against such general assets. The items forwarded for collection consisted of checks drawn by the depositors of the sendee bank against their respective deposits with such bank. Collection consisted of debiting each depositor's Balance with the amount of such checks by him drawn. The total of such debits was a credit in the hands of the sendee bank. What was its duty with relation to this credit? Was it required to segregate specific money in like amount and hold it in a separate fund until the draft in process of transmission to the forwarding bank had been received, presented, and honored, and the sendee so notified? The contract between the two banks did not so specify. It is difficult to see how such a term might be written into the contract by implication. The draft was against the general assets of the sendee. It was against funds or credits constituting part of the general assets of the sendee by the specific directions of the forwarding bank that transmission be by draft, if the sendee so elect. The sendee had a fund in hand in the form of credits withdrawn from the accounts of depositors whose checks

constituted the items for collection. This fund was in the exact amount of the draft transmitted, the genesis of the draft against the sendee's general assets. The conclusion is unescapable that the contract between the two banks contemplated that the draft against the general assets of the sendee bank was intended to be off-set or balanced by a transfer to such general assets of the various credits resulting from collection. Any other would be a forced one, without foundation in the contract of collection between the two banks, and violative of bookkeeping practice.

It is submitted that if the contract of collection contemplated that the proceeds of collection should be placed with the general assets of the sendee bank and with such assets commingled, this fact, together with the fact that the sendee bank should become, at least pro tem, a debtor of the forwarding bank, demonstrates beyond question that the initial relation of Principal and Agent was terminated and the relation of Debtor and Creditor came into being.

As has been outlined in the earlier part of this article, if such relation came into being, the mere failure of the debtor sendee bank to pay its debt to the forwarding creditor bank did not and could not operate to revive the trust relation.

As an illustration of the difficulty the court met in reconciling its decision with the facts and contract of the case, it is only necessary further to notice the court's holding with reference to the sendee bank's act in debiting its account with the third bank on which it drew the draft. As soon as the sendee drew against such funds, it debited on its own books, its account with the drawee in the amount of the draft.

The court in its opinion held that this act demonstrated that the sendee bank intended to set apart such a balance as would be required to meet the draft, and since equity regards that done which ought to have been

done, the entry of this debit on the books of the sendee bank amounted to an equitable assignment and created a trust fund.

The fallacy becomes apparent if the reasoning is applied to the reciprocal accounts method of collection. Its application to such method makes the sendee after collection a fiduciary in the reciprocal accounts method of collection. In that method to sendee after collection deposits the proceeds with its general assets and credits the forwarding bank's account, necessarily debiting its general assets to balance. This debiting of its general assets and crediting the forwarding bank's account are only the necessities of bookkeeping, as was the debit in the instant case, and in cases arising out of the reciprocal accounts method of collection there is probably no case which construes the act of such debiting as the creation of a constructive trust.

It is submitted that the Peters case is contrary to the reason and principle of our law.

Richmond, Va.
August, 12, 1927.

HARDIN HARRIS.

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TRUST NATURE OF COLLECTION ITEMS.

(Article in 13 Virginia Law Register, N.S., 1.)

Upon no branch of the law of banks and banking has there been of late a wider diversity of opinion and ruling among American courts, state and federal, than upon that concerning the trust or preference nature of items sent by one bank to another for collection and remittance of proceeds. It seems timely, therefore, to give a resumé of recent decisions in point - certainly those of Virginia and its neighboring States.

The leading case in Virginia is Federal Reserve Bank v. Peters, 139 Va. 45, 123 S. E, 379, followed and approved in Federal Reserve Bank v. Bohannon, 141 Va. 285, 127 S. E. 161, the latter case being pronounced by the court to be "on all fours (with the former) in nearly every particular." The opinion in the Peters case was delivered by Judge West and is an informing and well reasoned discussion of the law in point. The following extracts present both the essential features of the practice and custom of banks in the matter of collections, an analysis and classification of collection methods and an ascertainment of the law with regard to each, certainly so far as litigation in the courts of Virginia is concerned. Rulings of other courts will be considered later herein.

The court, in the Peters case, held as follows:

"In order to make collections of checks handled by them, banks usually adopt one of two methods - reciprocal accounts, or remittances. Under the reciprocal accounts method, the collecting bank, upon receipt of payment of the checks, gives credit upon its books to the forwarding bank, and the forwarding bank charges the collecting bank upon its books. They settle from time to time according as the balance accumulates, with the one or the other. Under this method, as soon as the collection is made the relation of the banks is that of creditor and debtor. Under the remittance method the forwarding bank sends the checks to the collecting bank with instructions to collect them and remit immediately. The col-

lecting bank is not authorized to retain the proceeds in its hands, and therefore acts only as agent for the forwarding bank.

"In the instant case the Federal Reserve Bank of Richmond was authorized to receive and did receive from various member banks and other persons checks and drafts drawn upon and payable by the Prince Edward-Lunenburg County Bank. In order to collect the amount of such drafts, the Federal Reserve Bank had agreed with the Prince Edward-Lunenburg County Bank that all such checks and drafts should be sent by the Federal Reserve Bank, by mail, to the Prince Edward-Lunenburg County Bank, and that the Prince Edward-Lunenburg County Bank, when the checks and drafts were received, would present or cause them to be presented to itself, and would pay such as were good and it desired to pay, and would return properly protested such as it was unwilling to pay, and would immediately remit the amount of checks which it paid by means of a shipment of currency or money to the Federal Reserve Bank of Richmond or by means of a draft drawn by the Prince Edward-Lunenburg County Bank upon some other bank with which it had funds upon deposit.

"Held: That it was manifest that the remittance method of collection was the one used by the Federal Reserve Bank of Richmond in the instant case, and that the relation of the banks was not that of debtor and creditor, but that the Prince Edward-Lunenburg County Bank acted as agent for the Federal Reserve Bank.

"Where the relation of trustee and cestui que trust is established the mingling of the trust fund with the general fund in the hands of the trustee does not destroy the trust, but serves to extend the trust or lien to the whole mass of money.

"Equity regards that as done which ought to have been done. Thus, where a collecting bank is authorized to remit the amount of collections to a forwarding bank, or to send the forwarding bank a draft on another bank for such amount, such draft by the collecting bank is an equitable assignment of the funds so drawn upon.

"Where the relation of trustee and cestui que trust is established the mingling of the trust fund with the general fund in the hands of the trustee does not destroy the trust, but serves to extend the trust or lien to the whole mass of money.

"In determining whether or not an insolvent bank is a debtor or a trustee, the court may well look to the intention of the parties. If the forwarding bank intends to leave the money in the hands of the collecting bank, to be used by it in its usual course of business, it intends to become a general depositor, and accepts the bank as a debtor. If, on the other hand, the forwarding bank, as in the instant case, does not intend it to be so used, and demands that the proceeds of the checks be immediately returned to it, it does not become a depositor, but simply intrusts the bank with the money for a special purpose, and the collecting bank becomes a trustee, and a court of equity will impress with a trust the general funds in which the trust fund is included."

On the threshold, it is well to call attention to a distinction suggested in the first paragraph from the ruling in the Peters case, supra, namely, that the present inquiry concerns only items forwarded for collection and remittance, not those for collection and credit. As to the latter, the relation of debtor and creditor results; as to the former, that of principal and agent, bailor or

bailee, or cestui que trust and trustee. It may also be noted here that the discussion is, of course, predicated upon and arises from the insolvency of the sendee-bank.

The basal case in Virginia, cited in the Peters case, is First National Bank of Alexandria v. Payne, 85 Va. 890, 9 S. E. 153, 3 L. R. A. 384, decided in 1889. In that case the First National Bank sent Payne & Company, private bankers, doing business in Warrenton, Virginia, a letter containing checks drawn by various depositors in Payne & Company upon that banking firm and requested Payne & Company to credit the account of the First National Bank of Alexandria with the proceeds of the checks. A clerk in the office of Payne & Company accordingly canceled the checks and charged them to the accounts of the depositors and credited the amount of the checks to the First National Bank of Alexandria. On the day upon which the letter was received by Payne & Company and the above mentioned entries made in the accounts, Payne & Company were dissolved by the death of one of its partners. The proceeds of the checks received were never paid over to the First National Bank of Alexandria, and it was discovered that the firm was insolvent and an assignment was made for the benefit of its creditors. The Alexandria bank filed a petition praying that the entire amount of the checks sent by it to Payne & Company be paid over to it upon the theory that the proceeds of the checks were a trust fund which did not pass to the assignee. The court sustained this contention and ordered that the full amount of the claim of the First National Bank of Alexandria be paid.

In that early day of the law of the subject, Judge Lacy, writing with characteristic clearness, after having first correctly analyzed a somewhat complicated transaction, said:

> "Whether the transaction was hurtful or beneficial is immaterial. If it be true that Payne & Co. could not be charged with this as a non-existent firm, how does the case stand? The surviving partner received this sum of money destined for Payne & Co., and he was unable to apply it as directed. It was then a sum of money or a lot of evidences of debt in his hands belonging to the First National Bank of Alexandria, with whose instructions he could not comply. He was bound to obtain further instructions from his principal, or return the remittance. He had no authority to apply it other-

wise than as directed. It was not the property of the late firm. It was not a debt due the late firm. It could not be received or paid out on account of the partnership. It was in no wise connected with the late firm. It never came into their hands at all. He could not undertake to deal with it as partnership property, and, if he received it and disposed of it, it would in no wise concern the affairs of the late firm, and the deceased partner's estate could not be held bound for it. He did not return it, however, as has been said, but conveyed it in trust to secure the debts of the dissolved partnership. This he could not do, because, as we have said, it was not the property of the late firm, and could not be bound for the debts of the deceased partner any more than his estate could be held liable for it.

"Having passed, then, actually, but unlawfully, and without any authority, express or implied, from the real owners into the hands of appellee trustees, can it be reclaimed? It appears to be easily and clearly traceable upon the books of the late concern, placed there after there was no such firm; no checks have been drawn against it; it has remained unchanged in any respect, and there is no difficulty in tracing and identifying it. It does not belong to the assignees, because it did not belong to the firm. It was not in the power of the surviving partner to convey it. It did not pass by the deed, and the assignees have no right to it whatever, but, actually holding it, they can not use it for the purposes of the firm, but ought, in justice to return it to the owner, the First National Bank of Alexandria."

The only Virginia decision cited by Judge Lacy was Overseers v. Bank of Virginia, 2 Gratt. 547 (1848), which clearly foreshadowed the ruling in the Payne case. An attorney had collected a judgment for a client and had placed the check to his (the attorney's) credit in bank. The bank asserted a right of off-set against the deposit for a debt due it by the attorney.

Per STANDARD, J.:

"The well settled principles of law entitle a principal, in all cases where he can trace his property, whether it be in the hands of the agent, or of his representatives, or assignees, to reclaim it, unless it has been transferred bona fide to a purchaser of it, or assignee for value, without notice. In such cases, it is wholly immaterial whether the property be in its original state, or has been converted into money, securities, negotiable instruments or other property; if it be distinguishable, and separable from the other property or assets; and has an earmark, or other appropriate identity. The product, or substitute of the original thing, has the nature of the original thing itself imparted to it, as long as it can be ascertained to be such product, or substitute; and the right of the principal thereto ceases only when the means of ascertainment fail; and this is the case when the subject is turned into money, and is mixed and confounded in a general mass of the same description, and becomes incapable of being distinguished from the mass of the money of the agent."

Such was the law of the subject in Virginia down to 1924, when the court, in the Peters case, applying it to modern banking methods, approved and confirmed it. It may not be without interest to note in passing that before the

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decision of the Peters case, in at least three circuit courts of Virginia, charged with the administration of affairs of insolvent banks, the Payne case had been followed and in each a petition of an intervenor, alleging the trust nature of the collection item, was granted, the receiver being directed to pay the money forthwith, without reference to claims of depositors. No appeal was taken in any of the three cases.

We shall later herein consider certain decisions in near-by jurisdictions in which a conclusion directly opposite to that of the Virginia cases, supra, was reached; still later, certain recent cases from federal courts. Aside from these - indeed, as an original proposition - it is submitted that the reason of the law is with the Virginia ruling; that the true nature of the transaction between the forwarding bank and the collecting bank was that of bailment or quasi-bailment, a mere locatio, a delivery of a check or checks for the single purpose of collection and immediate remittance of the proceeds - the sender saying to the sendee, in effect, "I send you this item, not for deposit or credit of my account, but for collection and immediate remittance, its proceeds not to go into your keeping along with your assets; it is not to increase your accounts or deposit or debts due other banks, but its proceeds are to be sent me at once." The sendee accepts the item with this understanding, charges it to the account of the drawer, sends to the principal its check for the proceeds - and fails overnight, its remittance check being dishonored and protested upon presentation. It is submitted, we repeat, that in such a relation, the element of trust or special property is inherent, constituent and controlling, while that of debtor and creditor is foreign and incongruous.

So much for Virginia. In Alleman v. Sayre, 81 S. E. 805 (1917), the Supreme Court of Appeals of West Virginia considered the subject upon the following facts:

At about twenty minutes before noon of May 14, 1915, the plaintiffs deposited in the Bank of Ravenswood their certified check for $750, drawn on the First National Bank of Parkersburg, in favor of a member of their firm, and at the

same time obtained a certified check from the Bank of Ravenswood for $576.35, drawn by themselves, in favor of the town of Ravenswood, and, on the next day, May 15, 1915, at about eight o'clock a. m., an assistant state banking commissioner took full charge and control of the bank and closed it, because of its insolvency, and irregularities in the management thereof. The occasion of the deposit of the larger check and procurement of the smaller one was the purpose of the depositors, Alleman and Alleman, of Parkersburg, West Virginia, to file the latter with their bid for the contract for the construction of certain sewers for the town of Ravenswood. The contract having been let to some other person or firm, the check they filed with the city authorities was returned to them. The assistant banking commissioner, finding the check of Alleman and Alleman for $750 among the other papers of the bank, indorsed it, collected it through the Jackson County Bank, and paid it to T.J. Sayre, receiver of the Bank of Ravenswood, appointed by the state banking commissioner. On June 7, 1915, Alleman and Alleman returned their check on the Bank of Ravenswood to the receiver thereof, for cancellation, and it was canceled by him and returned to them, June 11, 1915. A 25 per cent. dividend was distributed among the creditors of the bank, January 18, 1916, in which Alleman and Alleman shared to the extent of $187.50, which was credited on their claim of $750.

These facts, it will be perceived, do not present the case of an item sent by one bank to another for collection and remittance, but of an actual deposit by a depositor for which he immediately received a certified check. The ruling of the appellate court was as follows:

> "Entries made by a bank officer, on the deposit of a check, draft or similar paper, importing creation of the relation of debtor and creditor between the bank and the depositor, prove, in the absence of evidence to the contrary, an assignment of the instrument deposited to the bank; but they are provisional, and such assignment is subject to the right of recission, in the absence of circumstances precluding exercise thereof, and the relation of debtor and creditor is not irrevocably established until the money for which the deposited paper calls has been actually collected."

"If, before such collection has been made, the bank fails and closes its doors to business, it is deemed in law to have been the agent of the depositor for collection of the money evidenced by the deposited paper, in the absence of circumstances precluding restoration of the status quo by the depositor, and the latter, on making such restoration, is entitled to have the paper returned to him, on demand therefor before collection by the receiver, and to have the full amount collected thereon, if the receiver has collected it before such demand is made."

Per Poffenbarger, J.:

"It is held by the great weight of authority, that the relation of debtor and creditor is not effected until the deposited check, draft, or note has been collected, and that if the collection was not made before the bank was closed, the relation at the date of insolvency was that of principal and agent for collection. Armstrong, Receiver v. Bank, 90 Ky. 431, 14 S. W. 411, 9 L. R. A. 553; Commercial Bank v. Armstrong, 148 U. S. 50, 13 Sup. Ct. 533, 37 L. Ed. 363; Bank v. Bank, 2 Wall. 252, 17 L. Ed. 785; Jones v. Kilbreth, 49 Ohio St. 401, 31 N. E. 346; Levi v. National Bank, 5 Dill. 104, Fed. Cas. No. 8,289; Richardson v. Coffee Co., 102 Fed. 785, 43 C. C. A. 583; Bank v. Strauss, 66 Miss. 479, 6 South. 232, 14 Am. St. Rep. 579; Guignon v. Bank, 22 Mont. 140, 55 Pac. 1051, 1097; Higgins v. Haydon, 53 Neb. 61, 73 N. W. 280; Blake v. Bank, 12 Wash. 619, 41 Pac. 909; Bolles, Modern Banking, p. 194; Michie, Banking, pp. 1417, 1420.

"Plaintiffs had power to restore the status quo, and did so. They returned the check drawn on the insolvent bank. Indeed, it was drawn for a temporary purpose, and with no intention that it should ever be paid. One of the plaintiffs says it would have been returned on the day of its issue, and the whole transaction with the bank then terminated, but for an accident, and that failure of the bank on the next day prevented the settlement.

"The right of recovery asserted here is unembarrassed by the difficulty usually found in efforts to recover money collected by the bank before it closed. In that class of cases, it is sometimes impossible for the depositor to prove the presence of his money in the bank at the date of the failure, and, in order to recover, he must do that. Michie, Banking, p. 1428; Bolles, Modern Law, Banking, pp. 188, 193. That the money represented by the check deposited by the plaintiffs was collected after the bank had failed and went into the assets in the hands of the receiver are admitted facts. Right of recovery does not depend upon the plaintiffs' ability to prove possession of the identical money collected. It is only necessary to show that the money went into the hands of the receiver, or was in the bank when it closed. That being done, there may be a judgment or decree for an equivalent sum."

It is interesting to note that the court also held that the acceptance of the 25 per cent. dividend from the receiver, while the plaintiffs were insisting upon payment of their claim as one entitled to preference, was not a waiver of the right of preference and did not estop plaintiffs from the assertion thereof, the court saying:

"No element of waiver or estoppel is found in the acceptance of the dividend. Though the receipt given therefor makes no express reservation of right,

it refers to the claim the plaintiffs had filed, and it was filed as a preferred claim. The right of preference was insisted upon strenuously from the beginning. As plaintiffs were entitled to payment of their claim in full, acceptance of a partial payment manifestly injured no one. Importers' and Traders' Bank v. Peters, 123 N. Y. 272, 25 N. E. 319."

In the Missouri case of Federal Reserve Bank of St. Louis v. Millspaugh, 282 S. W. 706, the ruling was substantially identical with that of the Supreme Court of Appeals of Virginia in the Peters case, supra, which is cited in the opinion. Said the court:

"The facts disclose that no reciprocal accounts were kept between these banks, the respondent and the appellant. Where a note, a check or a draft is forwarded by one bank to another, bearing a restrictive indorsement 'for collection and remittance, under directions to collect and forward the proceeds to the sender, the relation of principal and agent is created and not that of debtor and creditor. The funds thus collected are held to constitute a trust fund, and entitled to a preference over the claims of general creditors. When the relation existing between two banks, as in the case at bar, is that of principal and agent, the funds collected by the collecting bank for the forwarding bank become impressed with a trust in favor of the owner of the item collected. This is true, although the item collected be one drawn on the collecting bank, and it is collected by charging the item against the drawer's account, or if it be an item payable at the collecting bank and it is collected by a check drawn on it. The trust in either case follows the funds into the hands of the receiver - in this instance, the finance commissioner - although the collecting bank may fail before remitting the proceeds collected, provided the following conditions exist: (1) That the item was forwarded for collection and remittance of the collected proceeds; (2) that the drawer of the check had a sufficient balance with the collecting bank to authorize the charging of the item to his account; (3) that at the time the charge was made the collecting bank had sufficient funds available to honor the check; (4) that the bank which failed had at the time the receiver took charge of same sufficient funds on hand to pay the amount it had collected."

The Missouri case quotes with approval the following paragraph from the opinion in the Peters case:

"A check is not payment until the check is paid, and the drawing of a draft by the Prince Edward-Lunenburg County Bank to the order of the Federal Reserve Bank of Richmond and mailing the same to the last-mentioned bank in no way affected the trust already impressed. While the check was not an assignment of the fund against which it was drawn, as between the drawer of the check and the person who gave value for it, it was an equitable assignment of the fund pro tanto. Daniel on Negotiable Instruments, Par. 1643, p. 1852."

We next take up certain decisions in which a conclusion directly opposite to that of the foregoing cases was reached.

In North Carolina Corporation Commission v. Bank (1905), 167 N.C. 697, 50 S. E. 308, the facts were substantially those in the Peters case, supra, and are set forth in detail in the opinion. Concerning the request of an intervenor that it be adjudged in the administration of the assets of an insolvent bank, upon a draft with bill of lading attached, forwarded for collection, the court said:

> "We are asked to sustain this demand on the idea that the proceeds of this collection constituted a trust fund, and, when traced into the general assets of the bank, a right to priority of payment arises in favor of the claimant; and we are referred to the case of McLeod v. Evans, 66 Wis. 401, 28 N. W. 173, 214, 57 Am. Rep. 287, and other authorities, in support of this position. The proceeds were a trust fund, and would be so dealt with as long as the same were kept separate and could be followed or identified; but after collection made, and the fund were mingled with the general assets of the bank, its character as a trust fund ceased by that act, and a new obligation arose - the obligation of the collecting bank to pay or remit, not the specific money collected, but out of its general funds, most usually by check on some other portion of its assets. The bank committed no breach of trust in so mingling the proceeds of this collection with its general assets. That was the general custom of banks in dealing with such collections, and the claimant will be held to have forwarded his draft with this custom in mind. The bank had a right to mingle this fund with its general assets. Its character as a trust fund thereby ceased, and the default alleged against the bank is not, therefore, a breach of trust, but a failure to pay a debt, and the holder of such a claim can only share pro rata as one of the general creditors. It is this mingling of the assets according to the custom of banks, and of right, in pursuance of its contract for collection, expressed or implied, that distinguishes cases of this character from any of those cited by counsel. They were, in the main, cases of individual trustees, with the duties of trustees still upon them, and while their obligations as such in reference to the trust funds were still existent. Here the character of trust fund had ceased. The bank was under no obligation, as trustee, to keep this fund separate. On the contrary in carrying the proceeds of this collection into its general assets, the bank acted according to the general custom of banks, and as both parties contemplated it would act. There was therefore no breach of trust, and the only obligation resting on the bank was to remit when called on, or in the usual course of business, out of its general funds. The case of McLeod v. Evans, supra, is to the effect contended for by the appellant; but this case was overruled by a decision of the same court in Silk Co. v. Flanders, 87 Wis. 237, 58 N. W. 383, and the general tenor of this last opinion would seem to show that this able court is in accord with the principle here declared. As said in Bank v. Bank, 148 Mass. 332, 20 N. E. 193, 2 L. R. A. 699, 12 Am. St. Rep. 598: 'Upon the collection of a draft or check, the Fidelity Bank was not required to keep the proceeds by itself as the plaintiff's property, but might mingle it with its own money, and make itself the plaintiff's debtor for the amount received. As soon as the proceeds became a part of the funds of the Fidelity Bank under this arrangement, the plaintiff's right to control it as specific property was gone, and the plaintiff had instead, a right to recover a corresponding sum of money.'

"We are not inadvertent to the fact that the bank is said to have been in an insolvent condition. While the bank was open and doing business, and in the absence of any allegation or suggestion of fraud or collusion between the bank and the debtor, the transaction was a payment, and the same results would follow whether the bank was solvent or insolvent. It is not stated that the officers of the bank were aware of its insolvency, and we are not discussing here the effect of fraudulent conduct on the individual officers of the bank. We are seeking to lay down a fair and just rule for the disposition of the property of an insolvent among its creditors. As to them, while the bank was a going concern, it had a right to make the collection, and the same right to follow the general custom of banks and carry the proceeds into its general assets. The claimant gave this authority and took that risk when he sent his paper for collection, and we do not think the fact that he has selected a faithless agent gives him any right to priority over other creditors, when he can no longer identify his property. Of course, after a bank has suspended business and closed its doors, a different rule prevails. But the facts of this case do not require that this rule should be dwelt upon.

"We are of opinion that, on principle and authority, the claimant can only share the assets pro rata as one of the general creditors, and the judgment of the court below is affirmed.

Attention should be called, before leaving this case, to the following language:

"Of course, if the proceeds of such collection could be identified or traced into some specific property, a different principle would prevail, but no such facts existed here. It is expressly stated that the proceeds of this collection were mingled with general funds of the bank, and it is not claimed that any part of such collection can be identified or traced into such specific property or investments."

In North Carolina Corporation Commission v. Bank of Hamlet, 135 S. E. 342 (Nov. 17, 1926), the Supreme Court of North Carolina, in a brief per curiam opinion adhered to its ruling in Commission v. Bank, supra, holding that a shipper's claim against a bank in receivership for amount of unpaid cashier's checks for proceeds of drafts sent for collection only was not entitled to preference over bank's general creditors.

The first-mentioned opinion of the North Carolina court presents quite fully the view of those who differ diametrically from the thought underlying the Peters and similar decisions. The writer of this article, however, confesses his inability to agree that "the fair and just disposition of the property of an insolvent among its creditors" is that indicated. A sufficient objection to the claim of fairness and justice would seem to be that the collection item un-

der consideration by the court never was "the property of the insolvent." At most, the insolvent had only a special or qualified or bailee's or agent's or trustee's property in it which it is neither accurate nor fair nor just to enlarge into a substantial and beneficial property.

In Citizens Bank of Pinewood v. Bradley, 134 S. E. 510 (Sept. 20, 1926), the Supreme Court of South Carolina considered the subject and reached a conclusion, Watts, J., dissenting in part, in consonance with that of the Supreme Court of North Carolina in the two cases last mentioned. The opinion was delivered by Cothran, J., and its first paragraphs are as follows:

> "This court must take judicial notice of the unprecedented clashes of financial institutions and private enterprises recently occurring, which have shocked the state, and must anticipate in their wake the presentation of innumerable problems for its determination. I regard this, therefore, as a most critical period in the judicial history of this state, and feel the deepest responsibility in deciding the question as they arise, upon the most painstaking consideration, lest an erroneous decision will be 'drawn into a precedent' fraught with disaster.
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> "The Citizens Bank of Pinewood has gone upon the rocks, and the controversy is over the salvage. Certain creditors of the bank claim preferences in the distribution of the assets of the defunct institution, which claims to preference are resisted by the state bank examiner and the liquidating committee representing all of the creditors, including the depositors. The amounts are small, the principle involved is of vast consequence in its application to numerous other institutions in process of liquidation."

The ruling of the court was that the owner of a draft sent for collection and remittance and a collecting bank before collection bore to each other the relation of principal and agent, but after collection, the relation of creditor and debtor; further, that a claim by the former arising in the circumstances indicated is not entitled to priority. This opinion also may be profitably consulted by those who are interested in the subject.

The opinion cites White v. Bank, 60 S. C. 122, 38 S. E. 453, which it says is "interesting in this connection." In the White case, the court said, among other things, "To entitle him (a party who had transmitted drafts for collection to a bank which became insolvent before remitting proceeds) to such priority, he must show that his so-called trust fund, in some form, has gone into the as-

sets of the bank now in the hands of the receiver; and this he has failed to do," etc. This is a clear statement by implication that if the required showing could have been made, which in many cases is far from impossible, priority would have been decreed. As a matter of fact, the sendee-bank in that case was unusually insolvent, the court saying that "the receiver had only received $5.00 in cash assets of the bank, and there was no fund which could possibly constitute the 'res' of a trust" - a condition, it may be added, which must have been painful to the receiver as well as to general creditors.

But the opinion in the Bank of Pinewood case does not even cite the recent decision of the same court in Yeldell v. Peoples Bank, 118 S. C. 442, 110 S. E. 789 (1922), in the opinion in which Cothran, J., concurred. In that case, it was held that:

> Securities turned over to a bank for collection are impressed with a trust in the hands of trustees subsequently appointed when the bank became financially involved, so far as they can be traced; but it matters not in what form, different from the original form, the securities may be in, so long as they can be ascertained to be the property intrusted; and the right ceases only when the means of ascertainment fail, or the property has come into the hands of a bona fide purchaser for value and without notice.

The Supreme Court of South Carolina adopted as its own the opinion of the judge of the lower court, Hon. Frank B. Gary, from which the following paragraph is taken:

> "As I understand the law as recognized and followed by the courts of South Carolina, although other jurisdictions have followed different lines, it is this: 'If any property, in its original state and form, is covered with a trust in favor of the principal, no change of that state and form can divest it of such trust, or give the agent or trustee converting it, or those who represent him in right (not being bona fide purchasers for a valuable consideration without notice), any more valid claim in respect to it than they respectively had before such change. * * * It matters not * * * into whatever form, different from the original, the change may have been made, * * * for the product of a substitute for the original thing still follows the nature of the thing itself, so long as it can be ascertained to be such. The right ceases only when the means of ascertainment fail.' * * * In following a trust fund, it is not necessary to trace the identical coins or bills of which it is composed. Substantial identity is all that need be proved; and therefore a cestui que trust may pursue and recover a trust fund originally received by the trustee in the form of money, so long as its identity can be ascertained, although he may be unable to trace the identical coins or bank bills in

> which such money was originally paid to the trustee. * * * While the cestui que trust may follow a trust fund through any number of transmutations, and into the hands of any person except a bona fide purchaser for a valuable consideration without notice, so long as he can clearly identify it (meaning, as is shown, * * * substantial identification), it is well settled that his right to so pursue it fails, when the means of ascertaining its identity fails.' This statement of the law was quoted with approval by our court in the case of White v. Bank, 60 S. C. 127, 38 S.E. 455."

While it is true that the facts of the Bank of Pinewood case were not in all particulars identical with those of the Yeldell case, there seems at least a sufficiently clear resemblance between the respective declarations in the two cases of the law in point to have justified, if not necessitated, a citation of the last-mentioned decision in the opinion of the former, and an indication of the substantial differences, if any. Concerning the facts of the Bank of Pinewood case, Cothran, J., says: "I think, too, that even if the relation be considered a trust, the claimant has utterly failed to trace into the hands of the liquidating committee any money, the 'res' upon which a trust could be imposed." Granting this, it is submitted with respect that the Yeldell case should have been at least commented upon opinion in Citizens Bank of Pinewood v. Bradley.

We come in conclusion to the consideration of certain recent cases in the federal courts. This article is already longer than was anticipated, but length of treatment is always necessary to an adequate presentation of the law of an important subject upon which judicial opinion differs as widely as it does in the present instance. In Larabee Flour Mills v. First National Bank of Henryetta, Oklahoma, 13 Fed. (2d) 330, decided June 12, 1926, by the Circuit Court of Appeals for the Eighth Circuit, the same diversity of opinion is shown, one of the three judges of the appellate court dissenting emphatically from a decree reversing the decree of the lower court which had allowed a preference. The collection item was not a check of a depositor upon the sendee-bank, but a draft sent to the Henryetta Bank for collection and remittance of proceeds, which draft the Henryetta Bank presented to the payee, a produce company, the produce company giving its check on the Henryetta Bank in payment, the bank balance being suf-

ficient. The bank accepted the check, charged the amount to the account of the produce company and mailed its draft for the proceeds; on the same day, however, it was closed by the Comptroller of the Currency and placed in the hands of a receiver. The majority ruling was as follows:

> A draft sent to bank for collection on having been taken up by drawee, depositor in the bank, by his check on it, so that no additional funds were brought into it, but there was a mere shifting of credits on its books, drawer was not entitled to preference, on failure of bank before making payment on account of collection.

The majority opinion was delivered by Lewis, Circuit Judge, and is fairly reflected in the following paragraphs:

> "The real issue in each case is between the preference claimant and general creditors of the bank. They will get less if the preference is allowed. Each claimant asserted an equity, that the assets taken over by the Comptroller are trust funds in which it is a preferred beneficiary. It is difficult to explain or understand by what equitable right one who has not contributed to the creation of a fund should be given a special and superior interest therein, though some of the state courts seem to so hold. The collecting banks acted as agents, Commercial Bank v. Armstrong, 148 U. S. 50, 13 S. Ct. 533, 37 L. Ed. 363, and had they collected and retained the funds called for by the drafts, as was their duty on account of insolvency, the equities of claimants would be plain; but instead of doing so, they merely shifted credits on their books and records. No part of the funds in the banks when they failed was placed there by claimants or by any one for them. In each case the draft was paid by check on the insolvent. No additional funds were brought into the bank by either transaction. If the drafts which they held for collection had been paid in currency or by check on some other bank, the insolvents' assets would have been increased that much when thereafter their remittance drafts were dishonored; and in that event equity would have regarded the collections as trust funds, followed them into the increased assets, and, to the extent of the increase applied them first in discharge of these claims. This is our conception of the rule and the reason for it, applied in the federal courts. It has been repeatedly announced by this court. In the course of the opinion of this court in Beard v. Independent Dist. of Pella City, 88 Fed. 35, 31 C. C. A. 562, which presented the same issue we have here, on like controlling facts, it is said:
>
> "'Unless it appears that the fund or estate coming into possession of the receiver has been augmented or benefited by the wrongful use of the trust fund, no reason exists for giving the owner of the trust fund a preference over the general creditors, * * * and to assume (the position) of the owner of a trust fund, and as such to assert a preferential right to payment in full of the cash fund coming into the hands of the receiver, to the detriment of the general creditors, it (claimant) ought to be held to satisfactory proof of the fact upon which the right to a preference rests, to-wit, that the fund coming into the receiver's hands has been augmented and increased by the addition thereto of the trust money, not as a matter of inference, nor as a result of mere entries on books of account, but because the fund or property against which the

preference is sought to be enforced has been in fact augmented or benefited by the addition of the trust fund.'

"That rule was re-announced by this court in Empire State Surety Co. v. Carroll County, 194 F. 593, 606, 114 C. C. A. 435, and again in Mechanics and Metals National Bank v. Buchanan, 12 F. (2d) 891, opinion filed April 28, 1926. The Fifth Circuit announced the same principle in Anheuser-Busch Brewing Ass'n v. Clayton, 56 F. 759, 6 C. C. A. 108; the Sixth Circuit in City Bank of Hopkinsville v. Blackmore, 75 F. 771, 21 C. C. A. 514; and the Second Circuit in American Can Co. v. Williams, 178 F. 420, 101 C. C. A. 634. See also Boone County Bank v. Latimer (C. C.) 67 F. 27; Nyssa-Arcadia Drainage Dist. v. First National Bank of Vale (D. C.), 3 F. (2d) 648."

Faris, District Judge, dissented. He said among other things:

"I regret that I am unable to concur with the view taken by the majority of the court in these cases. Discursive dissents serve, I concede, no useful purpose, but ordinarily only conduce to keep alive controversy about questions of law which it were better, perhaps, to settle erroneously, rather than not to settle at all.

"The decisions of the courts are, upon the above question (statement of facts), utterly at variance. Both the state courts and the federal courts quite generally agree that a bank, which takes a draft for collection when the drawer is not a depositor of such bank already, becomes an agent and a trustee for the drawer; that it is the duty of such bank to remit to the drawer in money; that it can not, absent specific instructions, become the debtor or depository of the drawer, without his consent, and impliedly against his instructions, by the mere expedient of mingling the collected funds with its own assets, or by remitting in other form than money; and that, as a corollary to the last proposition, if such a fund be commingled with the bank's funds, it may yet be followed, even though it has no clearly identifying earmarks. In passing, I think the last question is not in the case here, because there was a segregation of the funds arising from this draft, when the bank drew its cashier's check for the proceeds of the draft, and put that check in the mail, prior to the receivership, as is admitted.

"But the state courts quite generally hold that, when a bank receives a draft for collection and remittance, and, of course, from a stranger, who is not a depositor of the collecting bank, and accepts in payment for such draft a check drawn on itself, a trust fund in favor of the drawer is thereby created, which fund may be followed and recovered in full from the receiver of such bank, if the latter shall become insolvent. Hawaiian Pineapple Co. v. Browne, 69 Mont. 140, 220 Pac. 1114; State National Bank v. First National Bank, 124 Ark. 531, 187 S. W. 673; Goodyear Tire & Rubber Co. v. Bank, 109 Kan. 772, 204 P. 992, 21 A. L. R. 677; Bank of Poplar Bluff v. Millspaugh (Mo. Sup.), 281 S. W. 733.

"On the other hand, the federal courts quite generally hold that the test of recovery as a preferred claim is whether by the transaction the assets of the insolvent bank, passing into the hands of the receiver, are increased; and they reach the conclusion that payment of such draft by a depositor of the collecting bank, by a check of such depositor on his account in the collecting bank, does not serve to increase the assets coming into the receiver's hands, but merely operates to make the drawer the creditor of the bank instead of the drawee.

"That the latter view is obviously sound when the drawer is already a depositor - that is, a creditor of the collecting bank - is borne out

both by reason and authority. For, when a depositor of a bank draws a draft and deposits it for collection and credit, the relation of debtor and creditor is created between such a drawer and the collecting bank, and the title of the proceeds of the draft passes to the bank. Thereafter the matter is one of ordinary debt, and such a debt is not a preferred claim. But, when a stranger draws a draft for collection and remittance of the proceeds to the drawer, no such relation of debtor and creditor is created, and the title to the proceeds of the draft does not pass to the bank. Nyssa-Arcadia Drainage Dist. v. First National Bank (D. C.), 3 F. (2d) 648; Commercial Bank v. Armstrong, 148 U. S. 50, 13 S. Ct. 533, 37 L. Ed. 363; Sweeney v. Easter, 1 Wall. 166, 17 L. Ed. 681. On the contrary the cases seem to hold that the bank becomes an agent and trustee for the drawer, and in such relation it takes and holds the proceeds of the draft. If without title and against the will of the drawer, who is its principal and cestui que trust, the bank may pocket this trust fund and pass it on to its creditors, the situation would seem novel and anomalous, and opposed to all general principles covering agency and trusteeship. Holder v. Western German Bank, 136 F. 90, 68 C. C. A. 554.

"A great majority of the cases wherein the federal court doctrine is laid down are cases in which the relation of debtor and creditor, as between the drawer and the collecting bank, already existed, yet many of these cases unnecessarily lay down the doctrine of the necessity of an augmentation of assets. Beard v. Independent, etc., District, 88 F. 875, 31 C. C. A. 562; Clark, etc., Co. v. American Bank, 230 F. 738; City Bank v. Blackmore, 75 F. 771, 21 C. C. A. 514; Nyssa, etc., District v. Bank (D.C.), 3 F. (2d) 648; Franklin, etc., Bank v. Beal (C. C.), 49 F. 606; Jewett v. Yardley (C. C.), 81 F. 920.

"It is conceded that the great weight of authority in the federal courts, even disregarding what I may call debtor and creditor cases, which I do not regard as in point, is in favor of the rule that recovery depends on whether there has occurred augmentation of assets through the transaction which occurred, and that when a draft held by a bank for collection is paid by the drawee with a check on the collecting bank, there is no such augmentation of assets, but a mere switching of credits. But I am not able to see how this fact has any such legal relevancy as to put the equities in favor of the strange drawer on a parity with those of the ordinary depositors of the bank. The latter became the willing creditors of the bank, the former, if he does become a creditor, becomes such without his consent and against his expressed intent. Many fairly well settled principles announced in the very cases which require such augmentation, and in many others besides, seem utterly at variance with the above rule. Some of these principles, so at variance, are: (a) That in case of a draft deposited for collection and return no title ever passes to the collecting bank (Nyssa, etc., District v. Bank, supra); (b) that the bank takes the collection as an agent for the drawer (American Can Co. v. Williams, 178 F. 420, 101 C. C. A. 634, Clark, etc., Co. v. Bank (D.C.), 230 F. 738; (c) that it takes the collection as the trustee of the drawer (Holder v. Bank, 136 Fed. 90, 68 C. C. A. 554); (d) that the collecting bank is bound to accept only legal tender, to-wit, money, in payment of such a draft (Bank v. Fed. Reserve Bank (C.C.A.), 6 F. (2d) 339; Fed. Reserve Bank v. Mallory, 264 U.S. 165, 44 S. Ct. 296, 68 L. Ed. 61, 31 A. L. R. 1261; Bradley Lumber Co. v. Bank (C.C.A.), 206 F. 41, and (e) that, if it mingles such a fund with its own funds, the proceeds may yet be followed (Peters v. Bain, 133 U.S. 670, 10 S. Ct. 354, 33 L. Ed. 696), and, ceteris paribus, recovered.

"I am led to believe that the error (if it is an error, and I cannot see

it otherwise) has arisen from too closely following debtor and creditor cases, in which the doctrine requiring augmentation of assets was early, but unnecessarily announced, and by the laying down of an erroneous initial premise, even if, auguendo, the correctness of the legal conclusion that there must be an augmentation of assets, be conceded."

The same appellate court later considered the subject in the case of Farmers National Bank v. Pribble, 15 Fed. (2d) 175, and reached substantially the same conclusions as in the Larabee Mill case. A single extract from its opinion must suffice here:

"It is clear that counsel for the plaintiff were familar with and probably had before them when they drew this complaint the established rule in the federal courts prescribing the facts requisite to establish a cause of action by a cestui que trust to recover from the receiver of the property of an insolvent corporation the payment in full of a trust fund in his possession in preference to the payment of anything to its general creditors, for they pleaded and set forth such facts in the complaint as stated a perfect cause of action in accordance with that rule, which is:

"'It is indispensable to the maintainance by a cestui que trust of a claim to preferential payment (by a receiver) out of the proceeds of the estate of an insolvent that clear proof be made that the trust property or its proceeds went into a specific fund or into a specific identified piece of property which came to the hands of the receiver, and then the claim can be sustained to that fund or property only, and only to the extent that the trust property or its proceeds went into it. It is not sufficient to prove that the trust property or its proceeds went into the general assets of the insolvent estate and increased the amount and value thereof which came to the hands of the receiver.' Empire State Surety Co. v. Carroll County, 194 F. 593, 114 C. C. A. 435; and cases there cited; Beard v. Independent School District, 88 F. 375, 31 C. C. A. 562; In re Seven Corners Bank, 58 Minn. 5, 59 N. W. 633; American Can Co v. Williams (C. C.), 176 F. 816; Willoughby v. Weinberger, 15 Okl. 226, 79 P. 777; Macy v. Roedenbeck, 227 F. 347, 356, 142 C. C. A. 42, L. R. A. 1916C, 12; Central Trust Co. v. Chicago, A. & N. Ry. Co. (D.C.), 232 F. 936, 934; State Bank of Winfield v. Alva Security Bank, 232 F. 847, 849, 147 C. C. A. 41; Titlow v. McCormick, 236 F. 209, 149 C. C. A. 399; Zenor v. McFarlin, 238 F. 721, 725, 151 C. C. A. 571; Scullin Steel Co. v. North American Co., 255 F. 945, 947, 167 C. C. A. 237; Mechanics & Metals Nat. Bank v. Buchanan (C. C. A.) 12 F. (2d) 891."

The court held that while counsel for plaintiff had made all allegations necessary to bring their client's case within the "established rule in the federal courts," they had (doubtless necessarily) come far short of sustaining their allegations with proof. A decree of the lower court in favor of plaintiff was, therefore, reversed and his bill dismissed.

Varying phases of the law of the subject were presented and adjudicated by the United States District Court for the Eastern District of North Carolina in four cases growing out of the failure of the Commercial National Bank of Wilmington, North Carolina, namely, Poisson v. Williams, Receiver, 15 Fed. (2d) 589, Marshburn v. Same, 15 Id. 589, First National Bank of Ventura, Cal. v. Same, 15 Id. 585, and Smith Reduction Co. v. Same, 15 Id. 870, all decided in October and November, 1926, Circuit Judge Parker delivering the opinions. No appeal has been taken in any of the cases.

In the Poisson case, the complainant sought to recover a fund held by the Commercial Bank as trustee for bondholders and to have passed into the hands of the receiver impressed with the trust. The fund was the cash proceeds of a sale of a railroad and its equipment and passed into the vaults of the Commercial Bank, an entry being made on its books, "Bond Account. Not subject to checks." It was shown that the amount of cash in the vaults of the bank had never fallen below the total amount of trust funds held by the bank since the fund was deposited. Held, that complainant was entitled to recover the fund in the hands of the bank's receiver, but not to interest.

In the Marshburn case it was held, that proceeds of bonds converted by a bank by placing them to its credit in another bank, mingling them with other deposits therein, were inextricably intermingled with other assets of the converting bank, so that the status of the owner was that of general creditor. Priority was denied, the court distinguishing the Poisson case upon the ground that under the facts of that case payments by the trustee-bank should be presumed to have been made from other funds, and that no such presumption could arise in the circumstances of the Marshburn case.

In the First National Bank of Ventura case the following propositions were enunciated:

One who has forwarded a draft to bank for collection may recover proceeds, if they can be traced or identified, where collecting bank was insolvent to the knowledge of officers at the time of collection.
Where a bank, with knowledge of insolvency, mingles proceeds of draft sent to it for collection with its money, the whole may be held in trust till equitable separation is made for defrauded party, provided bank's funds were increased by such proceeds.
Bank's collection of draft, which brought check, which was used in clearance to pay checks drawn on it, held not to place any cash in bank, so as to create a trust fund for the amount of the draft; such check being used to reduce liabilities, not to increase assets.

The opinion of Judge Parker is a valuable compendium of the federal authorities in point. His attention does not seem to have been called by counsel to the case of North Carolina Corp. Com. v. Bradley, supra, for it is not cited.

The Smith Reduction Company Case is especially interesting, priority being denied as to one item and decreed as to another, the court citing in support of its rulings the Poisson and Ventura cases, respectively.

Its ruling was as follows:

Where draft left by plaintiff with bank for collection was paid by check on another bank, which check with others and cash, was used in clearing with other bank, held that, since check did not bring cash into bank, plaintiff was not entitled to have trust declared against bank's receiver therefor, but was entitled to rights of general creditor only.
Where bank's receiver admitted that proceeds of collection of draft were in bank's vaults as trust funds when it failed, and were part of assets in his hands, owner of draft was entitled to recover proceeds, without interest, and without being required to wait until estate was settled.

The four decisions just mentioned present in comparatively small compass the practical features of the subject and the federal law concerning them.

We conclude here this presentation of the subject, expressing regret at but not an apology for its length. We have established the correctness of the statement in the first paragraph, supra, that upon no important branch of the law of banks and banking is there as much diversity of judicial opinion, and that fact alone justifies, if it does not demand, fullness of treatment. Those seeking an even fuller presentation of (conflicting) authorities may find them in extenso in First and Second Decennial Digest, Title Bank and Banking, Key Number 80(7), 166(1) and (2); Trusts, 372(1). What may be called, for want of a better term, a partial jurisdictional summary of the law in point may be thus stated:

In Virginia, Missouri and, probably, West Virginia, the courts strongly favor a preference of one claiming to have sent an item for collection and remittance to a bank which collects and immediately fails. In North and South Carolina, the present view is, generally, the opposite. In the federal courts, priority will be decreed if, first, the proceeds of collection can be traced into or identified as funds which have come into the hands of the receiver; second, if the funds of the insolvent bank have been actually augmented by the proceeds, and not used in clearance to pay checks drawn upon it. In the absence of these conditions, priority will be denied. Further, the federal courts will go as far as any to follow the proceeds of the conversion of an express trust fund into the hands of a receiver and to stamp and reclaim them as the original trust-subject in another form.

In the condition of the law of the subject, shown above, the federal judges themselves holding widely divergent views of the nature and application of the "established rule in the federal courts," it seems most desirable that the subject be considered in an appropriate case by the federal Supreme Court to the end that, so far as humanly possible, the last word may be spoken by it and at least approximate uniformity substituted for the existing variety of judicial treatment.

Richmond, Va.

George Bryan.

FEDERAL RESERVE BOARD X-4986

STATEMENT FOR THE PRESS

For immediate release: October 27, 1927.

CONDITION OF ACCEPTANCE MARKET
September 15, 1927, to October 11, 1927.

Activity in the acceptance market in New York increased seasonally during the four weeks ending October 11, both supply and demand showing moderate increases over preceding periods. Drawings against cotton, silk, coffee, and grain predominated. The total supply was somewhat greater than demand, however, and sales to the reserve banks both by dealers and banks were substantial.

Total purchases by dealers during the period were in the largest volume since last winter, purchases from endorsers being relatively heavy while those from acceptors showed little change. Sales to banks continued in about the same volume as in the preceding period, but other sales increased. The total volume of bills in the hands of dealers at the end of the period continued large. At the end of the first week in October rates on the longer maturities were advanced. Moderate activity characterized the bill markets in Boston and Chicago during the period. The following table shows the New York market rates on bills of various maturities at the beginning and end of the reporting period.

ACCEPTANCE RATES IN THE NEW YORK MARKET

Maturity	September 15 Bid	September 15 Asked	October 11 Bid	October 11 Asked
30 days	3 1/8	3	3 1/8	3
60 "	3 1/4	3 1/8	3 1/4	3 1/8
90 "	3 1/4	3 1/8	3 3/8	3 1/4
120 "	3 3/8	3 1/4	3 3/8-3 1/2	3 1/4-3 3/8
180 "	3 5/8	3 1/2	3 5/8-3 3/4	3 1/2-3 5/8

REGULATION H, SERIES OF 1927
(Superseding Regulation H of 1924)
MEMBERSHIP OF STATE BANKS AND TRUST COMPANIES
(As Tentatively Approved by Federal Reserve Board on June 21, 1927.)

SECTION I. BANKS ELIGIBLE FOR MEMBERSHIP

(a) Incorporation. - In order to be eligible for membership in a Federal reserve bank, a State bank or trust company must have been incorporated under a special or general law of the State or district in which it is located.

(b) Capital stock. - Under the terms of section 9 of the Federal reserve act as amended, no applying bank can be admitted to membership in a Federal reserve bank unless -

(a) It possesses a paid-up, unimpaired capital sufficient to entitle it to become a national banking association in the place where it is situated, under the provisions of the national bank act, or

(b) It possesses a paid-up, unimpaired capital of at least 60 per cent of such amount, and, under penalty of loss of membership, complies with the rules and regulations herein prescribed by the Federal Reserve Board fixing the time within which and the method by which the unimpaired capital of such bank shall be increased out of net income to equal the capital required under (a).

In order to become a member of the Federal reserve system, therefore, any State bank or trust company must have a minimum paid-up capital stock at the time it becomes a member, as follows:

If located in a city or town with a population	Minimum capital if admitted under clause (a)	Minimum capital if admitted under clause (b)
Not exceeding 3,000 inhabitants	$25,000	$15,000
Exceeding 3,000 but not exceeding 6,000 inhabitants	50,000	30,000
Exceeding 6,000 but not exceeding 50,000 inhabitants	100,000	60,000
Exceeding 50,000 inhabitants (except as stated below)	200,000	120,000
In an outlying district (*) of a city with a population exceeding 50,000 inhabitants; provided State law permits organization of State banks in such location with a capital of $100,000 or less	100,000	60,000

(*) The term "outlying district" is construed to mean that portion of a city which is located outside of, and at a considerable distance from, the recognized business and financial center of such city, and includes all suburban districts.

Any bank admitted to membership under clause (b) must also, as a condition of membership, the violation of which will subject it to expulsion from the Federal reserve system, increase its paid-up and unimpaired capital within five years after the approval of its application by the Federal Reserve Board to the amount required under (a). For the purpose of providing for such increase, every such bank shall set aside each year in a fund exclusively applicable to such capital increase not less than 50 per cent of its net earnings for the preceding year prior to the payment of dividends, and if such net earnings exceed 12 per cent of the paid-up capital of such bank, then all net earnings in excess of 6 per cent of the paid-up capital shall be carried to such fund, until such fund is large enough to provide for the necessary increase in capital. Whenever such fund shall be large enough to provide for the necessary increase in capital, or at such other time as the Federal Reserve Board may require, such fund or as much thereof as may be necessary shall be converted into capital by a stock dividend or used in any other manner permitted by State law to increase the capital of such bank to the amount required under (a): Provided, however, That such bank may be excused in whole or in part from compliance with the terms of this paragraph if it increases its capital through the sale of additional stock: Provided, further, That nothing herein contained shall be construed as requiring any such bank to violate any provision of State law, and in any case in which the requirements of this paragraph are inconsistent with the requirements of State law the requirements of this paragraph may be waived and the subject covered by a special condition of membership to be prescribed by the Federal Reserve Board.

(c) Branches. - In order to be eligible for membership in a Federal reserve bank, a State bank or trust company must relinquish any branch or branches established by it after February 25, 1927, beyond the corporate limits of the city, town or village in which the parent bank is situated.

SECTION II. APPLICATION FOR MEMBERSHIP

Any eligible State bank or trust company may make application on F. R. B. Form 83a, made a part of this regulation, to the Federal Reserve Board for an amount of capital stock in the Federal Reserve bank of its district equal to 6 per cent of the paid-up capital stock and surplus of such State bank or trust company. This application must be forwarded direct to the Federal reserve agent of the district in which the applying bank or trust company is located and must be accompanied by Exhibits I, II, and III, referred to on page 1 of the application blank.

SECTION III. APPROVAL OF APPLICATION

In passing upon an application the Federal Reserve Board will consider especially -

(1) The financial condition of the applying bank or trust company and the general character of its management;

(2) Whether the corporate powers exercised by the applying bank or trust company are consistent with the purposes of the Federal reserve act; and

(3) Whether the laws of the State or district in which the applying bank or trust company is located contain provisions likely to prevent proper compliance with the provisions of the Federal reserve act and the regulations of the Federal Reserve Board made in conformity therewith.

If, in the judgment of the Federal Reserve Board, an applying bank or trust company conforms to all the requirements of the Federal reserve act and these regulations, and is otherwise qualified for membership, the board will approve the application subject to such conditions as it may prescribe pursuant to the provisions of the Federal reserve act. When the conditions imposed by the board have been accepted by the applying bank or trust company the board will issue a certificate of approval, whereupon the applying bank or trust company shall make a payment to the Federal reserve bank of its district of one-half of the amount of its subscription, i. e., 3 per cent of the amount of its paid-up capital and surplus, and upon receipt of this payment the appropriate certificate of stock will be issued by the Federal reserve bank. The remaining half of its subscription shall be subject to call when deemed necessary by the Federal Reserve Board.

SECTION IV. CONDITIONS OF MEMBERSHIP

Pursuant to the authority contained in the first paragraph of section 9 of the Federal reserve act, which provides that the Federal Reserve Board may permit applying banks to become members of the Federal reserve system "subject to the provisions of this Act and to such conditions as it may prescribe pursuant thereto", the Federal Reserve Board will prescribe the following conditions of membership for each bank or trust company hereafter applying for admission to the Federal reserve system, in addition to such other conditions as the board may consider necessary or advisable in the particular case -

(1) Except with the permission of the Federal Reserve Board, such bank or trust company shall not cause or permit any change to be made in the general character of its assets or in the scope of the functions exercised by it at the time of admission to membership, such as will tend to affect materially the standard maintained at the time of its admission to the Federal reserve system and required as a condition of membership.

(2) Such bank or trust company shall at all times conduct its business and exercise its powers with due regard to the safety of its customers.

(3) Such bank or trust company shall reduce to, and maintain within, the limits prescribed by the laws of the State in which it is located, any loan which may be in excess of such limits.

(4) Such bank or trust company shall reduce to an amount equal to 10 per cent of its capital and surplus all balances in excess thereof, if any, which are carried with banks or trust companies which are not members of the Federal reserve system, and shall at all times maintain such balances within such limits.

(5) Such bank or trust company may accept drafts and bills of exchange drawn upon it of any character permitted by the laws of the State of its incorporation; but the aggregate amount of all acceptances outstanding at any one time shall not exceed the limitations imposed by section 13 of the Federal reserve act, that is, the aggregate amount of acceptances outstanding at any one time which are drawn for the purpose of furnishing dollar exchange in countries specified by the Federal Reserve Board shall not exceed 50 per cent of its capital and surplus, and the aggregate amount of all other acceptances, whether domestic or foreign, outstanding at any one time shall not exceed 50 per cent of its capital and surplus, except that the Federal Reserve Board, upon the application of such bank or trust company, may increase this limit from 50 per cent to 100 per cent of its capital and surplus: Provided, however, That in no event shall the aggregate amount of domestic acceptances

outstanding at any one time exceed 50 per cent of the capital and surplus of such bank or trust company.

(6) The board of directors of said bank or trust company shall adopt a resolution authorizing the interchange of reports and information between the Federal reserve bank of the district in which such bank or trust company is located and the banking authorities of the State in which such bank is located.

Each bank or trust company applying for membership hereafter will be required to agree to the above conditions and any other conditions which the board may prescribe pursuant to the provisions of the Federal reserve act prior to the admission of such bank or trust company to the Federal reserve system.

SECTION V. PERMISSION NECESSARY PRIOR TO MAKING CHANGES IN ASSETS OR SCOPE OF FUNCTIONS

Each bank or trust company hereafter admitted to the Federal reserve system and each bank or trust company which has heretofore been admitted subject to condition No. 1 of Section IV or subject to any similar condition shall, through the Federal reserve agent, request the permission of the Federal Reserve Board prior to taking any action which may result in a change in the general character of its assets or in the scope of the functions exercised by it at the time of admission to membership, such as will tend to affect materially the standard maintained at the time of its admission to the Federal reserve system and required as a condition of membership.

The board considers that among the actions which may result in changes of the kind referred to in this section are consolidations or mergers with, or purchases of the assets of other banks or branch banks.

SECTION VI. ESTABLISHMENT OR MAINTENANCE OF BRANCHES.

Every State bank which is, or hereafter becomes, a member of the Federal Reserve System will be required to comply strictly with the following provision of Section 9 of the Federal Reserve Act as amended by the Act of February 25, 1927:

> Any such State bank which, at the date of the approval of this Act, has established and is operating a branch or branches in conformity with the State law, may retain and operate the same while remaining or upon becoming a stockholder of such Federal reserve bank; but no such State bank may retain or acquire stock in a Federal reserve bank except upon relinquishment of any branch or branches established after the date of the approval of this Act beyond the limits of the city, town, or village in which the parent bank is situated.

This has been interpreted to mean that:

1. Any State member bank which, on February 25, 1927, had established and was actually operating a branch or branches in conformity with the State law is permitted to retain and operate the same while remaining a member of the Federal Reserve System, regardless of the location of such branch or branches.

2. Any nonmember State bank which, on February 25, 1927, had established

and was actually operating a branch or branches in conformity with State law may, if otherwise eligible, become a member of the Federal Reserve System and retain and operate such branches, regardless of their location.

3. In order to remain a member of the Federal Reserve System, every State member bank must relinquish any branch or branches established after February 25, 1927, beyond the corporate limits of the city, town or village in which the parent bank is situated.

4. Any State member bank which establishes any branch or branches after February 25, 1927, beyond the corporate limits of the city, town or village in which the parent bank is situated must either (a) relinquish such branch or branches or (b) forfeit all rights and privileges of membership and surrender its stock in the Federal reserve bank.

5. No State bank which has established any branches subsequent to February 25, 1927, beyond the corporate limits of the city, town or village in which the parent bank is situated may become a member of the Federal Reserve System except upon relinquishment of every such branch.

6. State member banks may establish branches within the corporate limits of the city, town or village in which the parent bank is situated without obtaining permission of the Federal Reserve Board.

SECTION VII. POWERS AND RESTRICTIONS

Every State bank or trust company while a member of the Federal reserve system -

(1) Shall retain its full charter and statutory rights as a State bank or trust company, subject to the provisions of the Federal reserve act, to the regulations of the Federal Reserve Board, and to the conditions prescribed by the Federal Reserve Board and agreed to by such State bank or trust company prior to its admission;

(2) Shall maintain such improvements and changes in its banking practice as may have been specifically required of it by the Federal Reserve Board as a condition of its admission and shall not lower the standard of banking then required of it;

(3) Shall enjoy all the privileges and observe all those requirements of the Federal reserve act and of the regulations of the Federal Reserve Board made in conformity therewith which are applicable to State banks and trust companies which have become member banks; and

(4) Shall comply at all times with any and all conditions of membership prescribed by the Federal Reserve Board at the time of the admission of such member bank to the Federal reserve system.

SECTION VIII. EXAMINATIONS AND REPORTS

Every State bank or trust company, while a member of the Federal reserve system, shall be subject to examinations made by direction of the Federal Reserve Board or of the Federal reserve bank by examiners selected or approved by the Federal Reserve Board.

Every State bank or trust company, while a member of the Federal reserve

system, shall be required to make in each year not less than three reports of condition on F. R. B. Form 105. Such reports shall be made to the Federal reserve bank of its district on call of such bank, on dates to be fixed by the Federal Reserve Board. They shall also make semiannual reports of earnings and dividends on F. R. B. Form 107. F. R. B. Forms 105 and 107 are made a part of this regulation.

REGULATION D, SERIES OF 1927
(Superseding Regulation D of 1924)

RESERVES OF MEMBER BANKS

(As Tentatively Approved by Federal Reserve Board on June 21, 1927.)

SECTION I. STATUTORY PROVISIONS

Section 19 of the Federal reserve act provides, in part, as follows:

BANK RESERVES

Sec. 19. Demand deposits within the meaning of this act shall comprise all deposits payable within thirty days, and time deposits shall comprise all deposits payable after thirty days, all savings accounts and certificates of deposit which are subject to not less than thirty days' notice before payment, and all postal savings deposits.

Every bank, banking association, or trust company which is or which becomes a member of any Federal reserve bank shall establish and maintain reserve balances with its Federal reserve bank as follows:

(a) If not in a reserve or central reserve city, as now or hereafter defined, it shall hold and maintain with the Federal reserve bank of its district an actual net balance equal to not less than seven per centum of the aggregate amount of its demand deposits and three per centum of its time deposits.

(b) If in a reserve city, as now or hereafter defined, it shall hold and maintain with the Federal reserve bank of its district an actual net balance equal to not less than ten per centum of the aggregate amount of its demand deposits and three per centum of its time deposits: Provided, however, That if located in the outlying districts of a reserve city or in territory added to such a city by the extension of its corporate charter, it may, upon the affirmative vote of five members of the Federal Reserve Board, hold and maintain the reserve balances specified in paragraph (a) hereof.

(c) If in a central reserve city, as now or hereafter defined, it shall hold and maintain with the Federal reserve bank of its district an actual net balance equal to not less than thirteen per centum of the aggregate amount of its demand deposits and three per centum of its time deposits: Provided, however, That if located in the outlying districts of a central reserve city or in territory added to such city by the extension of its corporate charter, it may, upon the affirmative vote of five members of the Federal Reserve Board, hold and maintain the reserve balances specified in paragraphs (a) or (b) thereof.

* * * * * * *

The required balance carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: Provided, however, That no bank shall at any time make new loans or shall

pay any dividends unless and until the total balance required by law is fully restored.

In estimating the balances required by this act, the net difference of amounts due to and from other banks shall be taken as the basis for ascertaining the deposits against which required balances with Federal reserve banks shall be determined.

The various Liberty bond acts (act of April 24, 1917, sec. 7; act of September 24, 1917, sec. 8; act of April 4, 1918, sec. 8) provide, in part, as follows:

That the provisions * * * with reference to the reserves required to be kept by national banking associations and other member banks of the Federal Reserve System, shall not apply to deposits of public moneys by the United States in designated depositaries.

SECTION II. DEFINITIONS

(a) Demand deposits. - The term "demand deposits" shall include all deposits which are payable within 30 days except "savings accounts," "time certificates of deposit," and "postal savings deposits," as defined below.

(b) Time deposits. - The term "time deposits" shall include all "time deposits, open accounts," all "savings accounts," all "time certificates of deposit," and all "postal savings deposits," as defined below.

(c) Time deposits, open accounts. - The term "time deposits, open accounts" shall mean deposits not evidenced by certificates of deposit or savings pass books, in respect to which a written contract is entered into with the depositor at the time the deposit is made that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, except on a given date, not less than 30 days after the date of the deposit, or on written notice which must be given by the depositor a certain specified number of days in advance, in no case less than 30 days.

(d) Savings accounts. - The term "savings accounts" shall mean those deposits in respect to which -

(1) The pass book, certificate, or other similar form of receipt delivered to and retained by the depositor must actually be presented to the bank whenever a withdrawal is made,

(2) The depositor may at any time be required by the bank to give notice of an intended withdrawal not less than 30 days before a withdrawal is made, and

(3) The bank's printed regulations, accepted by the depositor at the time the account is opened, include the above requirements.

Deposits which are permitted to be withdrawn by check or otherwise, without the actual presentation of the pass-book, certificate, or other similar form of receipt whenever a withdrawal is made, shall not be considered "savings accounts" within the meaning of this regulation. The retention of the pass-book, certificate, or other similar form of receipt, or a duplicate of same, by the bank and the presentation of same by the bank to itself is not an "actual presentation" within the meaning of this regulation.

Deposits of one bank in another shall not in any case be considered "savings accounts" within the meaning of this regulation.

(e) Time certificates of deposit. - A "time certificate of deposit" is defined as a written instrument delivered to and retained by the depositor evidencing the deposit with a bank, either with or without interest, of a certain sum specified on the face of the certificate payable in whole or in part to the depositor or on his order -

(1) On a certain date, specified on the certificate, not less than 30 days after the date of the deposit, or

(2) After the lapse of a certain specified time subsequent to the date of the certificate, in no case less than 30 days, or

(3) Upon written notice, which the bank may at its option require to be given a certain specified number of days, not less than 30 days, before the date of repayment, and

(4) In all cases only upon actual presentation of the certificate at each withdrawal for proper indorsement or surrender.

The retention of the certificate, or a duplicate of same, by the bank and the presentation of same by the bank to itself is not an "actual presentation" within the meaning of this regulation.

A certificate of deposit which is originally a time deposit within the meaning of this regulation becomes a demand deposit when its actual maturity becomes less than 30 days.

(f) Postal savings deposits. - The term "postal savings deposits" shall mean deposits of postal savings funds in banks under the terms of the postal savings act, approved June 25, 1910, as amended.

(g) Government deposits. - The term "Government deposits" shall mean deposits of public moneys by the United States in designated depositaries.[7]

[7]Deposits made by United States postmasters of Government funds, other than postal savings deposits, received by them in their official capacity, constitute "Government deposits" within the meaning of this regulation and, when made in designated depositaries, are exempt from the reserve requirements of section 19. The following classes of deposits, however, are not "Government deposits" within such meaning and are not exempt from reserve requirements:

(1) Deposits of Philippine funds made by the Philippine Government and carried under the title "Treasurer of the Philippine Islands currency reserve fund account."

(2) Deposits of Porto Rican funds made by the Porto Rican Government.

(3) Deposits of Indian funds under the control of the Department of the Interior.

(4) Deposits of States, counties, or municipalities.

(5) Deposits of the United States Shipping Board and the Emergency Fleet Corporation.

SECTION III. COMPUTATION OF RESERVES

(a) Amounts of reserves to be maintained. - Every member bank of the Federal reserve system is required by law to maintain on deposit with the Federal reserve bank of its district an actual net balance equal to 3 per cent of its time deposits plus -

Seven per cent of its demand deposits if not in a reserve or central reserve city.

Ten per cent of its demand deposits if in a reserve city, except that if located in an outlying district[8] of a reserve city or in territory added to such city by the extension of the city's corporate limits such bank may, upon the affirmative vote of five members of the Federal Reserve Board, be permitted to maintain 7 per cent reserves against its demand deposits.

Thirteen per cent of its demand deposits if located in a central reserve city, except that if located in an outlying district[8] of a central reserve city or in territory added to such city by the extension of the city's corporate limits, such bank may, upon the affirmative vote of five members of the Federal Reserve Board, be permitted to maintain 7 per cent or 10 per cent reserves against its demand deposits.

No reserves are required to be maintained against Government deposits as defined above.

A member bank exercising trust powers need not carry reserves against trust funds which it keeps segregated and apart from its general assets or which it deposits in another institution to the credit of itself as trustee or other fiduciary. If, however, such funds are mingled with the general assets of the bank, as permitted to national banks under authority of Section 11(k) of the Federal Reserve Act, a deposit liability thereby arises against which reserves must be carried. In computing reserve requirements, trust funds deposited in a member bank by another bank to the credit of such other bank as trustee or other fiduciary must be classified by the member bank as individual deposits rather than bank deposits.

(b) Deductions allowed in computing reserves. - Member banks in determining the amount against which reserves must be carried may deduct:

[8] The term "outlying district" is construed to mean that portion of a city which is located outside of, and at a considerable distance from, the recognized business and financial center of such city, and includes all suburban districts.

(1) From gross demand deposits, all Government deposits as defined above.

(2) From the amount of balances due to other banks, the amount of balances due from other banks (except Federal reserve banks and foreign banks), including in the amount due to other banks certified, cashiers', and treasurers' checks outstanding, and including in the amount due from other banks out of town items placed in the mail and charged to the account of correspondent banks, items with a Federal reserve bank in process of collection, checks drawn on banks located in the same city, and exchanges for clearing houses.

(c) Availability of checks as reserve. - Checks forwarded to a Federal reserve bank for collection or credit can not be counted as part of the minimum reserve balance to be carried by a member bank with its Federal reserve bank until such time as may be specified in the appropriate time schedule referred to in Section IV of Regulation J. If a member bank draw against checks before such time, the draft will be charged against its reserve balance if such balance be sufficient in amount to pay it; but any resulting impairment of reserve balances will be subject to all the penalties provided by the act, and by this Regulation.

SECTION IV. PENALTIES FOR DEFICIENCIES IN RESERVES

Inasmuch as it is essential that the law in respect to the maintenance by member banks of the required minimum reserve balance shall be strictly complied with, the Federal Reserve Board, under authority vested in it by section 19 of the Federal Reserve Act, hereby prescribes the following rules governing deficiencies in reserves:

1, Deficiencies in reserve balances of all member banks will be computed on the basis of actual net deposit balances, the required reserve balance of each member bank at the close of business each day being based on its net deposit balances at the close of business on the preceding business day;

2, Penalties for such deficiencies will be assessed monthly on the basis of actual daily deficiencies during the preceding month;

3. Such penalties shall be assessed at a basic rate of 2% per annum above the Federal reserve bank discount rate on commercial paper;

4. When a member bank has an actual deficiency in reserves for fifteen or more days in any month, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on daily reserve deficiencies, until such member bank has maintained the required reserves every day for a month. Such progressive penalty shall be at the rate of 1% for the first month and shall increase at the rate of 1% for each subsequent month thereafter in which the bank's actual reserves have been deficient for fifteen days or more; provided that the maximum penalty charged shall not exceed 10%;

5, Whenever any member bank is subject to the maximum penalty of 10%, the Federal Reserve Agent shall promptly report the fact to the Federal Reserve Board with a recommendation as to whether or not the Board should:

(a) In the case of a national bank, direct the Comptroller of the Currency to bring suit to forfeit the charter of such national bank under the provisions of Section 2 of the Federal Reserve Act; or

(b) In the case of a State member bank, institute proceedings to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership, pursuant to the provisions of Section 9 of the Federal Reserve Act; or

(c) In either case, to take such other action as the Federal Reserve Agent may recommend or the Federal Reserve Board may consider advisable.

SECTION V. LOANS AND DIVIDENDS WHILE RESERVES ARE DEFICIENT

It is unlawful for any member bank the reserves of which are at any time deficient to make any new loans or pay any dividends unless and until the total reserves required by law are fully restored, and the payment of penalties for deficiencies in reserves does not exempt member banks from this prohibition of law.

The Federal Reserve Agent in each District shall promptly report to the Federal Reserve Board any wilful disregard of this prohibition by member banks in his District and shall in each case recommend whether or not the Board should:

(a) In the case of a national bank, direct the Comptroller of the Currency to bring suit to forfeit the charter of such national bank under theprovisions of Section 2 of the Federal Reserve Act; or

(b) In the case of a State member bank, institute proceedings to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership pursuant to the provisions of Section 9 of the Federal Reserve Act; or

(c) In either case take such other action as theFederal Reserve Agent may recommend or the Federal Reserve Board may consider advisable.

FEDERAL RESERVE BOARD

X-4989

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 2, 1927.

SUBJECT: Amendment to Regulation K.

Dear Sir:

This is to advise you that the Federal Reserve Board has voted that Section IX of Regulation K as adopted June 8, 1927, (X-4868) be amended so as to read as follows:

" SECTION IX. INVESTMENTS IN THE STOCK OF OTHER CORPORATIONS.

"It is contemplated by the law that a Corporation shall conduct its business abroad either directly or indirectly through the ownership or control of corporations, and accordingly the Federal Reserve Board hereby consents that a Corporation may invest in the stock, or certificates of ownership, of any other corporation organized -

(a) Under the provisions of section 25(a) of the Federal Reserve Act;

(b) Under the laws of any foreign country or a colony or dependency thereof;

(c) Under the laws of any State, dependency, or insular possession of the United States;

provided, first, that such other corporation is not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States; and second, that it is not transacting any business in the United States except such as is incidental to its international or foreign business.

"Except with the approval of the Federal Reserve Board, no Corporation shall invest an amount in excess of 15 per cent of its capital and surplus in the stock of any corporation engaged in the business of banking, or an amount in excess of 10 per cent of its capital and surplus in the stock of any other kind of corporation.

"No Corporation shall purchase any stock in any other

corporation organized under the terms of section 25(a) or under the laws of any State, which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing Corporation. This restriction, however, does not apply to corporations organized under foreign laws."

By direction of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

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

FEDERAL RESERVE BOARD

WASHINGTON

X-4990

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 5, 1927.

Dear Sir:

Through the courtesy of Governor Geery, of the Federal Reserve Bank of Minneapolis, I enclose for your information a copy of an unpublished opinion rendered in 1918 by the U.S. District Court for the District of Minnesota in the case of Keyes v. Federal Reserve Bank of Minneapolis, wherein that court upheld the right of a Federal reserve bank to charge checks to the account of a drawee bank subsequent to insolvency even if it was handling such checks as agent of the banks from which it had received them.

I never heard of this decision until Governor Geery called it to my attention during the Governors' Conference.

Please do not take the trouble to acknowledge receipt of this letter or any similar letters transmitting for your information copies of opinions, briefs, etc., unless you wish to comment on same.

Very truly yours,

Walter Wyatt
General Counsel

Enclosure.

C O P Y

X-4990-A 361

IN THE UNITED STATES DISTRICT COURT,

DISTRICT OF MINNESOTA, FOURTH DIVISION.

- - - - - -

PAUL C. KEYES, as Receiver of the First National Bank of Clarkfield, Minnesota,

Plaintiff,

vs.

REDERAL RESERVE BANK OF MINNEAPOLIS, a corporation,

Defendant.

- - - - - -

This cause came on to be heard at Minneapolis, on the 9th and 11th days of October, 1918, J. N. Johnson, Esq., appearing on behalf of the plaintiff, and A. Ueland, Esq., appearing on behalf of the defendant.

The stipulations and testimony having been taken, and each side having rested, by agreement between Court and Counsel, briefs were furnished to the Court and exchanged between Counsel, and thereafter, on the 21st day of October, 1918, the case was orally argued by Counsel.

And now the Court, having duly considered the same,

It is ADJUDGED, ORDERED and DECREED, That the plaintiff take nothing in this action, and that the defendant has a right to a claim against the Receiver for $462.06, which he may file in the Receivership proceedings, and that defendant have judgment for its costs and disbursements, to be taxed by the clerk.

By the Court,

(Signed) Page Morris
Judge.

X-4990-A

362

M E M O R A N D U M.

At all times mentioned herein the First National Bank of Clarkfield, Minnesota, was a national banking association duly incorporated under and pursuant to the banking laws of the United States, and up to the 18th of September, 1917, conducted business as a national bank at Clarkfield, Minnesota.

At all times mentioned herein the defendant was a corporation duly organized and existing under and pursuant to an act of Congress of the United States entitled "Federal Reserve Act," approved December 23d, 1913, and conducting the business of a Federal Reserve Bank at Minneapolis, Minnesota.

The plaintiff's insolvent, First National Bank of Clarkfield, Minnesota, was on the 18th day of September, 1917, insolvent, and was on that day closed by order of the Comptroller of the Currency under and by virtue of the power and authority conferred upon him by the banking laws of the United States, and by virtue of the same power and authority the plaintiff was appointed the Receiver thereof and on the 4th day of October, 1917, duly qualified as such Receiver. Said First National Bank of Clarkfield was a member bank of the defendant under the provisions of the Federal Reserve Act. Pursuant to the provisions of the Federal Reserve Act the Federal Reserve Board, in the month of June, 1916, established a collection and clearing system by rules and regulations which have since been in force and effect, and prior to the transactions herein involved the defendant had become a part of such collection and clearing system, under such rules and regulations. The rules and regulations of the Federal Reserve Board provide, under the heading "Check Clearing and Collecting", as follows:

(Exhibit "C"):

Each Federal Reserve Bank shall exercise the functions of a clearing house under the following general terms and conditions:

(1) Each Federal Reserve Bank will receive at par from its member banks and from non-member banks in its district which have become clearing members checks drawn on all member and clearing member banks and on all other nonmember banks which agree to remit at par through the Federal Reserve Bank of their district.

(2) Each Federal reserve bank will receive at par from other Federal Reserve Banks and will receive at par from all member and clearing member banks, regardless of their location, for the credit of their accounts with their respective Federal Reserve Banks, checks drawn upon all member and clearing member banks of its district and upon all other nonmember banks of its district whose checks can be collected at par by the Federal Reserve Bank. The Federal Reserve Banks will prepare a par list of all nonmember banks to be revised from time to time, which will be furnished to member and clearing member banks.

(3) Immediate credit entry upon receipt subject to final payment will be made for all such items upon the books of the Federal Reserve Bank at full face value, but the proceeds will not be counted as part of the minimum reserve nor become available to meet checks drawn until actually collected, in accordance with the best practice now prevailing.

(4) Checks received by a Federal Reserve Bank on its member or clearing member banks will be forwarded direct to such banks and will not be charged to their accounts until sufficient time has elapsed within which to receive advice of payment.

(5) In the selection of collecting agents for handling checks on nonmember banks, which have not become clearing members, member banks will be given the preference.

(6) Under this plan each Federal Reserve Bank will receive at par from its member and clearing member banks checks on all member and clearing member banks and on all other nonmember banks whose checks can be collected at par by any Federal Reserve Bank. Member and clearing member banks will be required by the Federal Reserve Board to provide funds to cover at par all checks received from or for the account of their Federal Reserve Banks. Provided, however, That a member or clearing member bank may ship currency or specie from its own vaults at the expense of its Federal Reserve Bank to cover any deficiency which may arise because of and only in the case of inability to provide items to offset checks received from or for the account of its Federal Reserve Bank.

(7) Section 19 of the Federal Reserve Act provides that - -

The required balance carried by a member bank with a Federal Reserve Bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: Provided, however, That no bank shall at any time make new loans or shall pay any dividends unless and until the total balance required by law is fully restored.

It is manifest that items in process of collection can not lawfully be counted as part of the minimum reserve balance to be carried by a member bank with its Federal Reserve Bank. Therefore, should a member bank draw against such items the draft would be charged against its reserve balance if such balance were sufficient in amount to pay it; but any resulting impairment of reserve balances would be subject to all the penalties provided by the Act.

In as much as it is essential that the law in respect to the maintenance by member banks of the required minimum reserve balance shall be strictly complied with, the Federal Reserve Board, under authority vested in it by section 19 of the Act, hereby prescribes as the penalty for any deficiency in reserves a sum equivalent to an interest charge on the amount of the deficiency of 2 per cent, per annum above the ninety day discount rate of the Federal Reserve Bank of the district in which the member bank is located. The Board reserves the right to increase this penalty whenever conditions require it.

For the purpose of keeping their reserve balances intact member banks may at all times have recourse to the rediscount facilities offered by their respective Federal Reserve Banks.

(8) Each Federal Reserve Bank will determine by analysis the amounts of uncollected funds appearing on its books to the credit of each member bank. Such analysis will show the true status of the reserve held by the Federal Reserve Bank for each member bank and will enable it to apply the penalty for impairment of reserve.

A schedule of the time required within which to collect checks will be furnished to each bank to enable it to determine the time at which any item sent to its Federal Reserve Bank will be counted as reserve and become available to meet any checks drawn.

(9) In handling items for member and clearing member banks, a Federal Reserve Bank will act as agent only. The Board will require that each member and clearing member bank authorize its Federal Reserve Bank to send checks for collection to banks on which checks are drawn, and, except for negligence, such Federal Reserve Bank will assume no liability. Any further requirements that the Board may deem necessary will be set forth by the Federal Reserve Banks in their letters of instruction to their member and clearing member banks. Each Federal Reserve Bank will also promulgate rules and regulations governing the details of its operations as a clearing house, such rules and regulations to be binding upon all member and nonmember banks which are clearing through the Federal Reserve Bank.

And the rules and regulations governing the details of its operations as a clearing house promulgated by defendant provide, under the heading "Check Clearing and Collecting," as follows, (Exhibit "B"):

1. The Federal Reserve Bank of Minneapolis will discontinue its present collection system on July 15, 1916, in accordance with Federal Reserve Board Circular 1, Series of 1916, already sent you, and will thereafter, until further notice, receive from its member banks for immediate credit at par, checks drawn on all member banks in the United States and on such non-member banks as can be collected at par.

A par list of all non-member banks will be prepared, to be revised from time to time, which will be furnished member bank.

All such checks, except those drawn on Minneapolis and St. Paul banks, received by the Federal Reserve Bank by 3:00 P.M., except Saturday, when the hour will be 12:00 o'clock noon, will be credited subject to final payment at full face value upon day of receipt. Those received later than these

hours will be credited upon the following business day. The proceeds, however, will not be counted as reserve, nor become available to meet checks drawn, until actually collected. Owing to the clearing hour, checks drawn on Minneapolis and St. Paul banks received after 10:30 A.M., will not be credited nor proceeds become available until the following business day; those received before that hour will be credited on day of receipt and proceeds will be available that day.

3. Checks received by the Federal Reserve Bank, drawn on its member banks, will be forwarded direct to such member banks, and will be charged to their accounts on the date which, under usual conditions, advice of payment may be expected. Member banks should credit all remittances received from the Federal Reserve Bank upon day of receipt, advising the Federal Reserve Bank, and should not remit their drafts in payment. Member banks are required by the Federal Reserve Board to provide funds to cover at par all checks received from, or for the account of, their Federal Reserve Bank.

Section 19 of the Federal Reserve Act provides that:

"The reserve carried by a member bank with a Federal Reserve Bank may, under the regulations, subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: Provided, however, that no bank shall at any time make new loans or shall pay any dividends unless and until the total reserve required by law is fully restored."

7. In handling items for member banks, the Federal Reserve Bank of Minneapolis acts as agent only. It is understood that each member bank authorizes it to send checks for collection direct to banks on which checks are drawn, and except for negligence the Federal Reserve Bank of Minneapolis assumes no liability until funds are actually in its hands.

In September, 1917, there was and still is at Clarkfield, Minnesota, where the First National Bank of Clarkfield was located and doing business, a bank organized under the laws of Minnesota called the Clarkfield State Bank; and during all of said month this bank was a non-member bank of defendant upon which defendant could collect checks at par; and said bank was on the par list of non-member banks prepared by defendant and furnished to its member banks in accordance with said rules and regulations.

On the 17th of September, 1917, checks payable on presentation amounting to $1998.21 were deposited with defendant. These checks to the amount of $1943.96 were on said Clarkfield State Bank and to the amount of

$54.25 on said First National Bank of Clarkfield. These checks to the amount of $548.49 were so deposited by the Northwestern National Bank of Minneapolis, Minnesota, a member bank of defendant; and to the amount of $555.21 by the Merchants National Bank of St. Paul, Minnesota, a member bank of defendant; and to the amount of $218.30 by the Peoples Bank of St. Paul, Minnesota, a member bank of defendant; and one check for $570.86 by the First National Bank of Chicago, Illinois, a national banking association, and as such a member of the Federal Reserve Bank; and one check for $5.35 by the Corn Exchange National Bank of Chicago, Illinois, a national banking association, and as such a member of the Federal Reserve Bank; and one check for $100. by the Des Moines National Bank of Des Moines, Iowa, a national banking association, and as such a member of the Federal Reserve Bank. Each check when deposited with defendant contained on the back thereof the unrestricted and unconditional endorsements in blank of the payee thereof and of the bank depositing the same with defendant and credit was on that day given by defendant at par to the bank depositing the same.

After said checks were deposited with defendant and credit given for them as aforesaid, and on said 17th day of September, 1917, defendant forwarded all said checks by mail to said First National Bank of Clarkfield, for payment and credit as to the checks for $54.25 on said bank, and for collection and credit as to the checks for $1943.96 on the Clarkfield State Bank, and all said checks were received by said First National Bank of Clarkfield on the 18th of September, 1917.

On said 18th of September, 1917, the First National Bank of Clarkfield cleared with said Clarkfield State Bank checks which each then held against the other, and in this clearing the First National Bank of Clark-

field used all the checks on the State Bank of Clarkfield received from defendant as aforesaid and received credit for the same from said Clarkfield State Bank, but received no money. In said clearing the First National Bank of Clarkfield surrendered and delivered to the Clarkfield State Bank as fully paid and cancelled, all the checks on the latter bank which it had received from defendant, and the First National Bank of Clarkfield thereupon and on said 18th of September, 1917, and before it was closed or a receiver appointed for it, gave defendant credit on its books for all the checks which it received from defendant on that day as aforesaid, to wit: for the sum of $1998. 21.

The checks for $54.25 on the First National Bank of Clarkfield were returned by said bank or the plaintiff to the various drawers thereof, and the checks for $1943.96 on the Clarkfield State Bank were returned by it to the various drawers thereof, by reason whereof a more particular description of any of said checks can not be given.

No remittance or payment was ever made to defendant or any of the payees or endorsers of any of the above mentioned checks for or on account of such checks, or for or on account of the credit which defendant received on the books of said First National Bank of Clarkfield for said checks.

Thereafter, and on the 16th of October, 1917, defendant charged back severally to the various banks which had deposited the checks aforesaid, amounting to $1998.21, the amount of said checks which had been so deposited by each of said banks. And thereafter, and on the 14th day of May, 1918, this action was brought.

On the 18th of September, 1917, the First National Bank of Clarkfield had a balance to its credit on the books of defendant of $8647.04.

On the 25th of January, 1918, upon an accounting between plaintiff and defendant it was found that said bank was entitled to a credit for the amount of its stock in defendant with dividends accrued thereon to September 1, 1917, of $963., and to a further credit for unearned discounts on notes due March 1, 1918, of $21.90, making in all $9631.94, and that defendant had a right to deduct therefrom the amount of certain forged notes, the forgery having been discovered after the closing of the bank for insolvency with interest, which had been discounted by said bank with defendant prior to the 18th of September, 1917, for the purpose of replenishing the reserve of said bank with defendant and the proceeds of which forged notes constituted a part of said balance of $8647.04. After making these credits and deductions a balance of $1536.15 was found to be due from defendant to said bank unless defendant has the right to set off against this balance the amount of the aforesaid checks for $1998.21.

On said 18th of September, 1917, and for some time prior thereto , said First National Bank of Clarkfield was insolvent and was known by its cashier and one of its directors to be insolvent.

The sole contention and question to be decided here is as to whether or not the defendant is entitled to offset against the aforesaid balance of $1536.15, the amount of the aforesaid checks, $1998.21, the plaintiff contending that it has not the right to do so and the defendant that it has.

Under the pleadings and proofs here whether the offset be legal or equitable in its nature the right to its allowance can be determined in this action U. S. Comp. Statutes, Sec. 1251-b, (Judicial Code 247-b, as amended by Act of March, 1915, Ch. 90, 38 U. S. Statutes at large, 956.)

That defendant handled said checks as a clearing house, for the pur-

pose of collection and clearing, and for no other purpose is mutually conceded by counsel. Considering the matter then as a clearing house transaction it seems to me clear that, if the First National Bank of Clarkfield and the Clarkfield State Bank had been banks doing business in Minneapolis and the clearing had been had there on the 18th of September, 1917, upon finding that the $1998.21 was due from the First National Bank of Clarkfield to defendant, the defendant would have had the right to immediate payment thereof to it by that bank either in money or by check on its balance with defendant, or to charge said amount to said bank's account and have said bank give it credit therefor, and that being done the transaction would have been completely closed. But the defendant was the clearing house for banks in a wide territory, embracing the whole state of Minnesota, and was the clearing house for these two Clarkfield banks, and these checks had to be forwarded by mail and the clearance had at Clarkfield. Is it not apparent that upon the clearance being had between the Clarkfield banks defendant had the right to a credit with the First National Bank of Clarkfield for this amount and to charge the same to the account of said bank? That credit was given, but the charge was not made. It seems to me that defendant then had a right of action against that bank for said amount in its own name and in its own right. And if this is true it is clear it has had that right ever since, and therefore has the right of set off. The Receiver, the plaintiff here, took the assets of the bank as a mere trustee for creditors, and not for value and without notice, and, in the absence of statute to the contrary, subject to all claims and defences that might have been interposed as against the insolvent bank. The subsequent charging back of the checks by defendant or the subsequent statements of counsel for the defendant in his letters would not in any way affect the conclusion. The recovery of the set

off here will fully protect the plaintiff and he has no interest in, and is not concerned to inquire into, what was done between defendant and the banks depositing these checks or what advice has been given to defendant by its counsel. Elmquist V. Markot, 45 Minn. 305. Vanstrum V. Liljengren, 37 Minn. 191.

But let us consider the matter not as a clearing house transaction but as one of an agency for collection. The whole argument of plaintiff's counsel rests upon the proposition that as at the time the suit was brought the defendant was not the owner of the checks, they having, on the 16th of October, 1917, been charged back to the banks which had deposited them with defendant for collection, defendant has now no right of set off. He also quotes from letters written by defendant's counsel subsequent to the closing of the bank which he contends supports his proposition, and he claims that these letters and the charging back of the checks work an estoppel against the defendant's now asserting the right of set off. It does not seem to me that these statements of counsel and the charging back of the checks in any way affect the rights of the parties here. As to the claim of estoppel it may be said that the most essential element of an estoppel is absent. In the charging back of the checks and the statements of counsel for defendant there has been no act, representation or concealment upon which plaintiff or his insolvent has been induced to act, nor has there been any action by plaintiff or his insolvent in reliance thereon of a character to result in substantial prejudice to him or to his insolvent or to the creditors for whom as receiver he is trustee of the assets of the insolvent. It seems to me that the rights of the parties became fixed as of the time of the closing of the bank. Scott v. Armstrong, 146 U.S., 499-511. At that time defendant had a right of action against plain-

tiff's insolvent for the amount of the checks, whether or not they were only received by it as an agent for collection and conditional credit, and whether or not the endorsements thereon were restricted or uninrestricted. General Statutes of Minnesota 1913, Section 5848 and 5849. The subsequent ownership of the checks is unimportant. There was no defense as to the checks and no defense as to the credit arising therefrom on the books of the insolvent bank. The plaintiff has no standing to inquire into the relations between defendant and its depositing banks. Neither the insolvent nor its receiver has any concern with the question of the ownership of the checks, unless a defense be shown as against the endorsers or drawers thereof, or that defendant became the holder thereof after the closing of the bank for insolvency, or after knowledge of its insolvency. There is no such showing, and on the contrary the opposite appears. Farmers Deposit National Bank v Penn. Bank, 123 Pa. 283, Penn. Bank v. Farmers Deposit National Bank, 130 Pa. 209.

Plaintiff's counsel contends that the allowance of the offset would work a preference contrary to the provisions of sections 5234, 5236 and 5242, Revised Statutes of the U. S., 1878, (the National Banking Act). This contention is, I think dully disposed of adversely thereto by the decision of the Supreme Court in the case of Scott v. Armstrong, supra.

I am therefore of the opinion that defendant is legally entitled to the set off in question. And if I am in error as to that, I still think that under all the facts and circumstances of this case it is equitably entitled thereto. Scott v. Armstrong, supra. It must be remembered that the insolvent bank and its creditors received the full benefit of the amount of the checks. If the doctrine of estoppel can be invoked at all here, it would be to prevent the receiver from objecting to the setoff, at least to the amount of $1943.96,

the amount of the checks drawn on the State Bank of Clarkfield. Plaintiff's insolvent, was, on the 18th of September, 1917, and for some time prior thereto, insolvent, and known to be so by its chief managing officer. Notwithstanding that fact it held itself out to be solvent, and received and handled these checks as above set forth. Relying on its solvency and induced by its holding itself out to be so, defendant forwarded these checks to it when it might have forwarded them direct to the State Bank of Clarkfield, which of course was to the substantial prejudice of defendant.

The result is, that the balance of $1531.78 is wiped out, and defendant has the right to a claim against the receiver for the difference between that amount and $1998.21, the amount of the checks, to-wit, $462.06.

(Signed) Page Morris
Judge.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4991

November 7, 1927.

SUBJECT: Stocks of Unissued F. R. Notes.

Dear Sir:

You are requested to prepare and submit to the Federal Reserve Board, not later than December 1, 1927, an estimate of the amount of each denomination of the Federal reserve notes of your bank you may be called upon to issue during the calendar year 1928. This information is desired for the purpose of regulating the production of Federal reserve notes during the coming year.

Yours very truly,

J.C. Noell,
Assistant Secretary.

TO ALL F. R. AGENTS.

FEDERAL RESERVE BOARD

WASHINGTON

X-4992

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 8, 1927.

SUBJECT: Code Word to cover new Issue of Certificates of Indebtedness, Series TJ-1928, in Telegraphic Transactions.

Dear Sir:

In connection with telegraphic transactions in Government securities between Federal reserve banks, the code word "BESTIR" has been designated to cover the new issue of Treasury Certificates of Indebtedness, dated November 15, 1927, Series TJ-1928.

This word should be inserted in the Federal Reserve Telegraphic Code Book following the supplemental code word "BESTIAL" at the bottom of page 26.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F.R. BANKS.

FEDERAL RESERVE BOARD

WASHINGTON

X-4993

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 14, 1927.

SUBJECT: Complimentary Copies of Federal Reserve Bulletin for State Bank Examiners.

Dear Sir:

The Federal Reserve Board, as heretofore, will furnish State bank examiners with a complimentary copy of the Federal Reserve Bulletin, and you are requested to furnish this office, not later than December 15th, with a list of the names of such examiners in your district to whom a complimentary copy should be sent during the year 1928.

Yours very truly,

J. C. Noell,
Assistant Secretary.

TO ALL FEDERAL RESERVE AGENTS.

TREASURY DEPARTMENT
Office of the Secretary
Washington

November 7, 1927.

The Governor,
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period October 1, 1927, to October 31, 1927, amounting to $138,450, as follows:

Federal Reserve Notes, Series 1914

	$5	$10	$20	$50	Total
Boston	200,000	150,000	50,000	-	400,000
New York	650,000	250,000	-	-	900,000
Philadelphia	200,000	100,000	50,000	-	350,000
Cleveland	300,000	100,000	100,000	25,000	525,000
Richmond	200,000	150,000	-	-	350,000
Atlanta	100,000	50,000	50,000	-	200,000
Chicago	250,000	250,000	50,000	-	550,000
St. Louis	100,000	50,000	25,000	-	175,000
Kansas City	100,000	-	25,000	-	125,000
Dallas	100,000	50,000	25,000	-	175,000
San Francisco	100,000	-	50,000	-	150,000
	2,300,000	1,150,000	425,000	25,000	3,900,000

3,900,000 sheets @ $35.50 per M ..... $138,450.00.

The charges against the several Federal Reserve Banks are as follows:

Boston	$14,200.00
New York	31,950.00
Philadelphia	12,425.00
Cleveland	18,637.50
Richmond	12,425.00
Atlanta	7,100.00
Chicago	19,525.00
St. Louis.	6,212.50
Kansas City	4,437.50
Dallas	6,212.50
San Francisco.	5,325.00
	$138,450.00

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,
S. R. Jacobs,
Deputy Commissioner.

COPY X-4996

To: Federal Reserve Board March 24, 1927.

From: Mr. Wyatt - General Counsel. Subject: Power to Prescribe Conditions of Membership for State Banks under Section 9 as amended by McFadden Act.

Before admitting any more State banks to membership in the Federal Reserve System, it will be necessary for the Board to decide the most important question presented for its consideration by the amendments contained in the McFadden Act, - - i.e., what conditions of membership may the Board legally and properly prescribe in admitting State banks to the Federal Reserve System under the provisions of Section 9 of the Federal Reserve Act as amended by the McFadden Act?

The first paragraph of Section 9 of the Federal Reserve Act as amended by the McFadden Act of February 25, 1927, reads as follows, the words underlined having been inserted by the McFadden Act:

> "Sec. 9. Any bank incorporated by special law of any State, or organized under the general laws of any State or of the United States, desiring to become a member of the Federal reserve system, may make application to the Federal Reserve Board, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. The Federal Reserve Board, subject to the provisions of this Act and to such conditions as it may prescribe pursuant thereto may permit the applying bank to become a stockholder of such Federal reserve bank."

Upon a plain reading of the Act, it would seem that the Board may in its discretion prescribe any reasonable conditions which are "pursuant to" provisions of the Federal Reserve Act. The question arises, however, what conditions may be said to be pursuant to the provisions of the Federal Reserve Act?

WHAT CONDITIONS ARE "PURSUANT TO" THE ACT?

It may be argued that, technically, any condition of membership which the Board might prescribe would be "pursuant to" the last sentence of the

first paragraph of Section 9, which authorizes the Board to prescribe conditions of membership pursuant to the provisions of the Federal Reserve Act. Such a construction, however, would not be justified because it would give no effect whatever to the amendment adding to this sentence the words "pursuant thereto". It is a well-recognized rule of statutory construction that where the legislature amends a statute by adding certain new language it is presumed to have intended to make some change in the law, and some effect must be given to the new language added by the amendment.

I am of the opinion, therefore, that the Act as amended must be construed as authorizing the Board to prescribe only such conditions of membership as are "pursuant to" other provisions of the Federal Reserve Act.

The question then arises what conditions of membership may be said to be pursuant to provisions of the Federal Reserve Act other than the last sentence of the first paragraph of Section 9?

CONDITIONS "PURSUANT TO" SPECIFIC PROVISIONS OF THE ACT.

Conditions of membership which merely state or carry out certain specific provisions of the Federal Reserve Act obviously are conditions made pursuant to the provisions of the Federal Reserve Act within the meaning of the Act as amended.

Within this class would obviously be included the 7th and 8th conditions of membership set forth in Section IV of Regulation H. The 7th condition is merely designed to carry out that provision of Section 19 which forbids any member bank to keep on deposit with any State bank or trust company which is not a member bank a sum in excess of 10% of its own paid-up capital and surplus; and the 8th condition merely sets forth the substance of the provisions of Section 13 respecting the power of

State member banks to issue bankers' acceptances.

Likewise, it may be said that the 9th condition of membership set forth in Section IV of Regulation H, which provides that:

> "The Board of directors of said bank or trust company shall adopt a resolution authorizing the interchange of reports and information between the Federal Reserve Bank of the district in which such bank or trust company is located and the banking authorities of the State in which such bank is located ",

is prescribed pursuant to the provision of Section 9 of the Federal Reserve Act which authorizes Federal reserve banks to accept examinations and reports made by the State authorities in lieu of examinations made by examiners selected or approved by the Federal Reserve Board. The State authorities might well hesitate to disclose reports of examinations of State banks to Federal reserve banks unless authorized to do so by the banks examined. Hence, it may be said that the power to require State member banks to authorize the State authorities to furnish reports of examinations to the Federal reserve banks is incidental to the specific statutory authority for the Federal reserve banks to accept State examinations in lieu of examinations made by Federal Reserve Examiners. The statute does not expressly authorize Federal reserve banks to furnish the State authorities with copies of reports of examinations of State banks made by Federal Reserve Examiners; but the State authorities might refuse to furnish copies of their examinations to the Federal reserve banks unless the Federal reserve banks furnish them with reports of Federal reserve examinations of State banks. Hence, it may be said that the power to require State member banks to authorize the Federal reserve banks to furnish the State authorities with copies of reports of examinations of such State banks made by the Federal Reserve Examiners is necessarily incidental to the statutory authority for the Federal reserve banks

to accept State examinations in lieu of Federal reserve examinations. Moreover, this is an obviously reasonable condition to which no one could object.

It may be argued that the 3rd condition of membership set forth in Section IV of Regulation H, which provides that:

> "Such bank or trust company shall not reduce its capital stock except with the permission of the Federal Reserve Board",

is pursuant to that provision of Section 9 of the Federal Reserve Act which provides that:

> "All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this Act and to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock, which relate to the withdrawal or impairment of their capital stock, and which relates to the payment of unearned dividends ".

A reduction of the capital stock, however, does not necessarily involve a withdrawal or impairment of the capital stock nor reduce the capital below the capital requirements prescribed by the Federal Reserve Act. This condition of membership, therefore, goes beyond the above quoted provision of the Federal Reserve Act and cannot properly be said to be "pursuant thereto". For this reason, I am of the opinion that the Board may no longer prescribe this condition.

CONDITIONS RE BRANCHES.

The 4th and 5th conditions set forth in Section IV of Regulation H, which deal with the establishment of branches by State member banks and the absorption of, or the acquisition of an interest in, other banks for the purpose of converting such other banks into branches, are superseded by the following provisions of law, which was inserted in Section 9 of the Federal Reserve Act by an amendment contained in the McFadden Act:

"Any such State bank which, at the date of the approval of this Act, has established and is operating a branch or branches in conformity with the State law, may retain and operate the same while remaining or upon becoming a stockholder of such Federal reserve bank; but no such State bank may retain or acquire stock in a Federal reserve bank except upon relinquishment of any branch or branches established after the date of the approval of this Act beyond the limits of the city, town, or village in which the parent bank is situated".

By enacting this provision, Congress undoubtedly intended to deal completely with the subject of branches of State member banks. I am of the opinion, therefore, that the Board no longer has power to prescribe any conditions respecting branches of State member banks.

CONDITIONS RE FINANCIAL CONDITION OR MANAGEMENT.

The remaining conditions set forth in Section IV of Regulation H (i.e., the 1st, 2nd and 6th conditions) present more difficulty. These conditions read as follows:

"(1) Except with the permission of the Federal Reserve Board, such bank or trust company shall not cause or permit any change to be made in the general character of its assets or in the scope of the functions exercised by it at the time of admission to membership, such as will tend to affect materially the standard maintained at the time of its admission to the Federal reserve system and required as a condition of membership.

"(2) Such bank or trust company shall at all times conduct its business and exercise its powers with due regard to the safety of its customers.

"(3) Such bank or trust company shall reduce to, and maintain within, the limits prescribed by the laws of the State in which it is located, any loan which may be in excess of such limits".

I know of no provision of the Federal Reserve Act to which these conditions may be said to be pursuant unless it be that provision of Section 9 which provides that, in acting upon applications of State banks for membership in the Federal Reserve System:

" * * * the Federal Reserve Board shall consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers exercised

are consistent with the purposes of this Act".

Is a condition of membership which has a bearing upon the financial condition of the applying bank, the general character of its management or upon the question whether the corporate powers exercised by such bank are consistent with the purposes of the Federal Reserve Act a condition prescribed "pursuant to" a provision of the Federal Reserve Act?

The above quoted provision of Section 9 does not require the performance of any particular acts by member banks nor does it forbid the performance of any particular act by member banks. It does, however, impose a mandatory duty upon the Federal Reserve Board which must be discharged by the Board in acting upon every application of a State bank for membership in the Federal Reserve System.

When a bank applies for membership in the Federal Reserve System, the Board, in its discretion, may disapprove such application, or it may approve such application subject to the provisions of the Federal Reserve Act and such conditions of membership as the Board may prescribe pursuant thereto; and the law provides that, in acting upon such application, the Board "shall" (i.e., must) consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers exercised are consistent with the purposes of the Federal Reserve Act.

What is the purpose of this requirement and what practical application should be given to it?

Reading the entire Act together and giving it a practical interpretation, it would seem to contemplate that if the Board is dissatisfied with the financial condition of the applying bank or the general character of its management or feels that the corporate powers exercised by it are not con-

sistent with the purposes of the Federal Reserve Act, the Board should either (a) disapprove the application in toto and deny the bank the privileges of membership in the Federal Reserve System, or (b) admit the bank to membership subject to conditions designed to correct the matters found to be unsatisfactory.

This has always been the Board's practice, and the legislative history of this provision of the Federal Reserve Act (which is set forth on pages 5 to 9 of a letter attached hereto) demonstrates beyond any possibility of doubt that when Congress wrote this provision into the Federal Reserve Act (by the amendment of June 21, 1917), it thereby sanctioned such practice. Moreover, Congress did not by the amendment contained in the McFadden Bill clearly indicate an intent to prohibit such practice. On the contrary, as will hereinafter be shown, it rejected a specific amendment which would have stopped such practice.

I am of the opinion, therefore, that a condition of membership designed to correct an unsatisfactory financial condition of the applying bank or anything unsatisfactory in the general character of its management, or designed to restrict the bank to the exercise of such corporate powers as are consistent with the purposes of the Federal Reserve Act is a condition prescribed pursuant to the above quoted provision of the Federal Reserve Act.

I am also of the opinion that any condition of membership designed to preserve a satisfactory financial condition or satisfactory management for the applying bank or to keep the corporate powers exercised by the applying bank consistent with the purposes of the Federal Reserve Act is likewise a condition prescribed pursuant to this provision of the Federal Reserve Act.

In deciding whether or not to admit a particular bank to membership in the Federal Reserve System and if so what conditions of membership should be prescribed, the Board is required by law to consider the financial condition of such bank, the character of its management, and whether or not the corporate powers exercised by it are consistent with the purposes of the Federal Reserve Act. It would be futile for the Board to assure itself that the financial condition and management of the bank are satisfactory and that its corporate powers are consistent with the purposes of the Federal Reserve Act before admitting such bank to the Federal Reserve System if, on the very day after it is admitted to the System, such bank could materially impair its financial condition, lower the character of its management, and assume corporate powers inconsistent with membership in the Federal Reserve System. It would seem, therefore, that the Board is clearly justified in prescribing a condition of membership designed to require a bank to maintain the standard on the basis of which it was admitted to membership.

Condition No. 1, quoted above, is a condition designed to preserve a satisfactory financial condition of the applying bank and to keep it within the scope of the functions exercised by it at the time it was admitted to membership and which served as a basis for the Board's decision as to whether the corporate powers exercised by the bank were at that time consistent with the purposes of the Federal Reserve Act. For this reason, I am of the opinion that condition no. 1 is a condition prescribed "pursuant to" the provisions of the Federal Reserve Act.

Conditions Nos. 2 and 6 also relate to the financial condition of the applying bank and the general character of its management and are designed to preserve for such bank a satisfactory financial condition and satisfactory management. Any bank which exercises its powers without due

regard to the safety of its customers is obviously mismanaged and is very likely to get into a bad financial condition. And any bank which violates the loan limitations prescribed by the State laws is obviously mismanaged and is likely to get into a bad financial condition. I am of the opinion, therefore, that conditions no. 2 and 6 are conditions prescribed "pursuant to" the provisions of the Federal Reserve Act.

For the reasons set forth above, I am also of the opinion that special conditions of membership prescribed from time to time which require particular banks upon being admitted to the Federal Reserve System to agree to charge off worthless assets, to reduce certain lines of credit, or to make other adjustments which are necessary to improve the financial condition or management of the bank are conditions prescribed "pursuant to" the above quoted provision of the Act.

CONDITIONS RESTRICTING EXERCISE OF CORPORATE POWERS.

For the reasons set forth above, I am also of the opinion that special conditions of membership prescribed by the Board from time to time restricting or prohibiting the exercise by particular banks of specific corporate powers which the Board considers inconsistent with the purposes of the Federal Reserve Act are conditions prescribed "pursuant to" the above quoted provision of the Federal Reserve Act.

Owing to certain factors in the legislative history of the amendment contained in the McFadden Bill inserting the words "pursuant thereto" in the last sentence of the first paragraph of Section 9 of the Federal Reserve Act, however, it may be argued that this amendment was intended to have the effect of prohibiting the Federal Reserve Board from prescribing any conditions of membership which restrict in any way the exercise by State member banks of the corporate powers granted to them by the States of their

creation.

It is a fundamental rule of statutory construction that the intention of the legislature is to be sought first in the language of the statute, and if that language is clear and unambiguous it is improper to seek elsewhere for the intent of the legislature or to have recourse to the debates or other extraneous matters for that purpose.

> "If the language of the statute is plain and free from ambiguity, and expresses a single, definite, and sensible meaning, that meaning is conclusively presumed to be the meaning which the legislature intended to convey. In other words, the statute must be interpreted literally. Even though the court should be convinced that some other meaning was really intended by the law-making power, and even though the literal interpretation should defeat the very purposes of the enactment, still the explicit declaration of the legislature is the law, and the courts must not depart from it". - Black, Interpretation of Laws, (2 ed), p. 45.

While opinions on this subject may differ, it is my opinion that the language of this amendment is sufficiently clear to exclude any consideration of its legislative history from a strictly legal construction of the statute.

It is not improper, however, in administering a statute for an administrative body to consider the legislative history of the statute or any other relevant facts and to have a due regard to such considerations in formulating its administrative policy with respect to matters as to which its powers are discretionary. For this reason it is important to consider the legislative history of that provision of the McFadden Bill which inserted the words "pursuant thereto" in Section 9 of the Federal Reserve Act. Incidentally, a consideration of such legislative history will demonstrate that it was not the intent of Congress as a whole to forbid the Board to prescribe conditions of membership restricting the exercise of corporate powers inconsistent with membership; but, on the

contrary. Congress rejected a proposed amendment which would have had this effect.

LEGISLATIVE HISTORY OF THIS AMENDMENT.

Inasmuch as it was at the instance of Senator Glass that this amendment was added to the McFadden Bill, it is appropriate to consider first of all the individual views of Senator Glass on this subject.

It may be recalled that, during the hearings conducted by the Joint Congressional Committee appointed under Section 506 of the Agricultural Credits Act of 1923 for the purpose of investigating the reasons why State banks fail to become members of the Federal Reserve System, this question was discussed at a hearing held by the Committee at which several members of the Federal Reserve Board were present. Senator Glass, who was a member of the Committee, questioned the Board's right to prescribe conditions of membership restricting the establishment of branches. He contended that the Board had no right to prescribe any conditions of membership except such as were pursuant to specific provisions of the Federal Reserve Act. He based his contention upon the following provision of Section 9:

> "Subject to the provisions of this Act and to the regulations of the Board made pursuant thereto, any bank becoming a member of the Federal Reserve System shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks".

In reply to Senator Glass' contention, I pointed out that one of the provisions of the Federal Reserve Act to which the rights of State member banks were subjected was the provision of Section 9 which at that time authorized the Board to prescribe conditions of membership without any specific limitation as to the conditions that might be prescribed.

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Senator Glass, however, continued to maintain the view that the intent of Congress was to permit State banks to exercise unimpaired the rights granted to them under State law, except where the exercise of such rights was in conflict with specific provisions of the Federal Reserve Act.

The following statement made by Senator Glass on the floor of the Senate (page 3933 of the Congressional Record for February 16, 1927) is also pertinent:

> "Then, in another very important respect, I direct the attention of the Senator from Montana to the bill as it came from the House. It was a shocking invasion of the rights of the State banks of the country."
>
> "Mr. WHEELER. It is strange how many State banks wanted the bill with Hull amendments, if the Senator is correct.
>
> "Mr. GLASS. So much so that the State banks were utterly opposed to the bill until the Senate made a satisfactory adjustment of that controverted point. In other words, in some way of which I have no knowledge, at some time, there were dropped out of the original Federal reserve act certain words which constituted a guarantee to the State banks throughout the country that their charter rights might not be invaded; and the Federal Reserve Board, assuming legislative functions which it had no right to do, made regulations for the admission of State banks to the Federal reserve system which were not authorized by the act itself and were made under an interpretation of an exceedingly refined and dubious nature. The Senate committee, in the bill now before us, had restored those words, making regulations by the Federal Reserve Board subject to the provisions of the act itself. Not until these words were restored did the National Association of State Bank Superintendents come here and advocate the passage of the bill as amended by the Senate committee. So when it comes to respecting the rights of the States, when it comes to the question of preserving the charter integrity of State banks, the Senate bill is infinitely superior to the bill which the Senator from Montana is advocating."

From this it would appear that Senator Glass was of the opinion that Congress intended by this amendment to prevent the Board from prescribing any conditions of membership restricting the exercise by State banks of the corporate powers granted to them by the States of

their creation. If such was the legislative intent, it is my opinion that Congress failed to use language adequate to carry out that intent. (See the above quotation from Black on Interpretation of Laws.)

Moreover, Congress rejected a proposed amendment which would have specifically forbidden the Federal Reserve Board to promulgate any "conditions or rules or regulations" which would "limit or impair the charter or statutory rights and powers of such banks", thus indicating that Congress as a whole did not intend the amendment actually adopted to have such effect.

While the McFadden Bill was being considered by the Banking and Currency Committee of the House, representatives of the National Association of Supervisors of State Banks appeared before the Committee and urged it to insert into the McFadden Bill an amendment which would change the last sentence of the first paragraph of Section 9 of the Federal Reserve Act to read as follows; the words underlined being added:

> "The Federal Reserve Board, subject to the provisions of this Act and to such conditions as it may prescribe pursuant thereto, may permit the applying bank to become a stockholder of such Federal Reserve Bank; Provided, however, that such conditions or rules or regulations prescribed shall not limit or impair the charter or statutory rights and powers of such banks nor shall the Federal Reserve Board impose any conditions or restrictions other than those under which national banks shall operate."

Being somewhat dubious as to the advisability of adopting such an amendment, Congressman McFadden, Chairman of the Banking and Currency Committee of the House, arranged a conference between the representatives of the National Association of Supervisors of State Banks and the Federal Reserve Board. The conference took place in the offices of the Federal Reserve Board on December 30, 1925, with Congressman McFadden present, and this subject was fully discussed. The discussion developed the fact

that the criticisms of the Board's Regulations and practices which gave rise to this suggested amendment were based upon a misapprehension of the facts and were totally unfounded. Subsequently, Congressman McFadden asked the Board for a written statement of its views with reference to this proposed amendment and such a statement was furnished in a letter addressed to him by the Board, under date of February 2, 1926, which was published in the report of the hearings held by the Senate Committee on Banking and Currency on February 16, 17, 18 and 24, 1926, pages 38 et seq. A copy of that letter is attached hereto for the Board's further information.

As a result of this conference with the Federal Reserve Board, and of the letter addressed to Mr. McFadden by the Board, the House Committee rejected the amendment proposed by the National Association of Supervisors of State Banks. This appears from the following statement made by Congressman McFadden during a hearing conducted by the Banking and Currency Committee of the Senate on February 16, 1926. (page 20 of the report):

> "Since this bill has been before Congress there has been a persistent attempt by Mr. Sims, vice president of the Hibernia Trust & Savings Bank, of New Orleans, and also secretary of the National Association of Supervisors of State Banks, to insert an amendment which would deprive the Federal Reserve Board of all discretionary authority to impose any condition of membership upon State banks which would in any way limit the exercise of their charter powers. In other words, if a State bank under the State laws possessed the charter powers to engage in the insurance business, or the warehouse business, the public utility business, or the automobile business, the Board would have to permit them as Federal reserve members to continue to carry on these enterprises, although they can not be said to constitute the banking business. As chairman of the House Committee, I had a conference with Mr. Sims and two of his associates and arranged for a special hearing before the Federal Reserve Board. In the meantime there was inserted in the bill an amendment appearing as a new section 10, designed to meet this situation. This language, however, proved to be unsatisfactory to Mr.

Sims. Upon consideration of the bill in committee, this section was stricken out by a committee amendment, and the House sustained the committee and declined to approve the language desired by Mr. Sims. In the meantime, on February 2, 1926, I received a letter from the Federal Reserve Board, in which they set forth at length their views in opposition to the so-called Sims amendment, a copy of this letter I herewith submit as a part of my remarks."

In spite of the rejection of this amendment by the Committee, Congressman Celler of New York offered the amendment on the floor of the House when the bill was under consideration there, and the amendment was rejected without a record vote. This appears from the following quotation from the Congressional Record of February 3, 1926, pages 2937 and 2938:

"Mr. CELLER. Mr. Chairman, I offer an amendment.

"The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

"The Clerk read as follows:

"Amendment offered by Mr. Celler: Page 15, line 25, after the word 'Board', insert:

"'And provided further, The Federal Reserve Board, subject to the provisions of this act and to such conditions as it may prescribe pursuant thereto, may permit the applying bank to become a stockholder of such Federal reserve bank; Provided, however, That such conditions or rules or regulations prescribed shall not limit or impair the charter or statutory rights and powers of such banks, nor shall the Federal Reserve Board impose any conditions or restrictions other than those under which national banks shall operate."

"(Cries of 'Vote!' 'Vote!)

"Mr. CELLER. Mr. Chairman and gentlemen of the committee, I will only keep you a few seconds to explain that this amendment has been suggested by the National Association of Supervisors of Banks and is very similar to the amendment I offered previously in the debate. It seeks to put the national banks and State banks upon a parity with reference to regulations which might be prescribed for the opening of branches by the Federal Reserve Board, and for that reason I offer it and urge its adoption.

"Mr. BRAND of Georgia. Will the gentleman yield?

"Mr. CELLER. Yes.

"Mr. BRAND of Georgia. Is not this what is known as the Sims amendment?

"Mr. CELLER. That is correct.

"Mr. McFADDEN. Mr. Chairman, I think there is a little time remaining, and I want to say to the Members of the House that this is a proposition which the Federal Reserve Board very strenuously oppose. It would take all discretionary power away from the Federal Reserve Board, and in my opinion the amendment should not be adopted.

"The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Celler).

"The amendment was rejected."

I have been unable to ascertain whether this amendment was formally presented to the Banking and Currency Committee of the Senate; but I do know that the above facts were explained to the Banking and Currency Committee of the Senate by Congressman McFadden during the hearing held by that Committee on February 16, 1926 (page 20) and that a copy of the Board's letter quoting this proposed amendment and explaining its objections thereto was incorporated in the reports of that hearing. (Pages 38 to 45).

In spite of the fact that this very specific amendment was thus called to its attention, the Senate Committee did not adopt it or recommend any other amendment which would specifically and clearly forbid the Federal Reserve Board to prescribe any conditions, rules or regulations which would "limit or impair the charter or statutory rights and powers of such banks". On the contrary, the Senate Committee inserted into the McFadden Bill only the first part of the amendment recommended by the National Association of Supervisors of State banks, which

merely amended Section 9 so as to provide that the conditions of membership prescribed by the Federal Reserve Board must be "pursuant to" the provisions of the Federal Reserve Act.

This apparently was intended as a compromise between the extreme demands of the National Association of Supervisors of State Banks and the view of the House of Representatives that no restriction whatever should be placed upon the power of the Federal Reserve Board to prescribe conditions of membership; and this compromise was ultimately adopted by both houses and incorporated into the McFadden Act.

Thus, both houses of Congress rejected an amendment which would specifically have forbidden the Federal Reserve Board to prescribe any "conditions, rules or regulations" which would "limit or impair the charter or statutory rights and powers of such banks," and, in lieu thereof, adopted an amendment which merely provided that the conditions of membership prescribed by the Federal Reserve Board must be "pursuant to" the provisions of the Federal Reserve Act.

Regardless of the personal intention of Senator Glass or the individual views which he might hold as to the purpose or effect of this amendment, the fact that Congress rejected the specific language proposed by the National Association of Supervisors of State Banks shows clearly that Congress as a whole did not intend to prevent the Federal Reserve Board from prescribing any conditions of membership, restricting the exercise of corporate powers inconsistent with the purposes of the Federal Reserve Act. In my opinion, therefore, Congress did not intend to impose any such restriction on the Federal Reserve Board; and to construe the amendment which Congress did adopt as having this effect would be to give the amendment actually adopted an effect which Congress intended it not to

have.

QUESTION OF POLICY.

The question remains, however, whether the Board, as a matter of policy, should comply with the views of Senator Glass and the views of the National Association of Supervisors of State Banks in this matter and discontinue the practice of prescribing conditions of membership restricting the exercise of particular corporate powers by State member banks. This is a question of policy for the Board's determination.

In this connection, I respectfully suggest that it would not be inappropriate for the Board to discuss this question frankly with Senator Glass and ascertain his views as to what conditions of membership the Board should prescribe. If this matter is discussed with Senator Glass, it is highly important that he should be acquainted with the practical difficulty confronting the Board when a desirable State bank applies for membership in the Federal Reserve System, and the Board finds that such bank has the corporate power to write surety bonds, to insure titles to real estate, to write fidelity insurance or to do anything else which in the Board's opinion is inconsistent with the purposes of the Federal Reserve Act. In such a case, if the Board can not properly prescribe a condition of membership restricting the exercise of such inappropriate power by the applying bank, the Board must adopt one of two very undesirable alternatives: It must either exclude the bank from membership altogether or permit it to come into the Federal Reserve System with the unrestricted right to exercise powers which may endanger the bank's solvency and which the Board considers inconsistent with the purposes of

the Federal Reserve Act.

Such a case was recently pending before the Board. A national bank in New Jersey, which had long been a member of the Federal Reserve System, the financial condition of which appeared to be sound, which appeared to be properly managed, and which had resources aggregating approximately $20,000,000. was about to "convert" into a State trust company, and application for membership in the Federal Reserve System had been made on behalf of the proposed new trust company. Under the laws of New Jersey, however, this trust company would have the corporate power to examine and guarantee titles to real estate, to write surety bonds, and to insure the faithful performance of their duties by any persons holding positions of public or private trust. If this trust company were admitted to membership in the Federal Reserve System without any conditions restricting the exercise of these powers, it could incur liabilities of this character in amounts equalling many times the amount of its deposit liabilities. This might seriously endanger the solvency of the institution and the interests of its depositors, and the Federal Reserve Board would be powerless to prevent it or even to expel the bank from the Federal Reserve System. What, then, was the Board to do? It must adopt one of these three alternatives:

1. Refuse to admit the bank to the Federal Reserve System;

2. Admit it to the System with the unrestricted right to exercise these powers which the Board has always considered inconsistent with membership in the Federal Reserve System; or

3. Admit it to the System subject to a condition of membership prohibiting the exercise of these powers or restricting it to reasonable and safe limits.

If the Board decides to discuss this subject with Senator Glass, I respectfully suggest that it lay this actual case before him and request his views as to what should be done in such a case.

CONCLUSION.

This subject is one which cannot safely be reduced to a "rule of thumb". Each condition of membership must be considered individually and in the light of the provisions of the Federal Reserve Act, the purpose of such provisions, and the spirit and purpose of the Act as a whole. Moreover, the problem is of such a nature that neither the legal principles involved nor the questions of policy involved can be adequately comprehended without some familiarity with the legislative history of this subject, the practical situation, and the various other considerations discussed above. For the convenience of the Board, however, I shall summarize as briefly as possible my conclusions.

I. In general, it may be said that the Board may no longer prescribe any conditions of membership except such as are "pursuant to" provisions of the Federal Reserve Act other than the provision authorizing the Board to prescribe conditions.

II. As to the nine conditions set forth in Section IV of Regulation H, my conclusions are as follows:

1. The Board may continue to prescribe Condition No. 1, which relates to changes in the character of the bank's assets or the scope of the powers exercised by it, such as would tend to affect materially the standard required as a condition of membership; because such condition is pursuant to that provision of Section 9 which requires the Board in admitting a bank to membership to consider the financial condition of the applying bank,

the character of its management, and whether or not the corporate powers exercised are consistent with the purposes of the Federal Reserve Act.

2. The Board may continue to prescribe Condition No. 2, which requires the bank to conduct its business with a due regard to the safety of its customers, because such condition is pursuant to that provision of the Federal Reserve Act which requires the Board in acting upon applications for membership to consider the financial condition of the applying bank and the general character of its management.

3. The Board may no longer prescribe Condition No. 3, forbidding the bank to reduce its capital without the Board's permission; because this goes beyond those provisions of the Federal Reserve Act which pertain to the capital of State member banks.

4. The Board may no longer prescribe Condition No. 4, restricting the establishment of branches; because Congress has dealt completely with this subject by an amendment contained in the McFadden Bill and such amendment supersedes such conditions.

5. The Board may no longer prescribe Condition No. 5, forbidding consolidations, etc., for the purpose of acquiring branches; because Congress has completely dealt with the subject of branches by the amendment contained in the McFadden Act and this amendment supersedes such condition.

6. The Board may continue to prescribe Condition No. 6, requiring the bank to reduce all loans in excess of the limits prescribed by State law; because such condition is pursuant to that provision

of the Federal Reserve Act which requires the Board in acting upon applications for membership to consider the financial condition of the applying bank and the general character of its management.

7. The Board may continue to prescribe Condition No. 7, which requires the bank to reduce to an amount equal to 10% of its capital and surplus all balances in excess thereof carried with nonmember banks; because this merely states the substance of the specific provision of Section 19 on this subject.

8. The Board may continue to prescribe Condition No. 8; because such condition merely sets forth the substance of the provisions of Section 13 regarding the issuance of bankers' acceptances by member banks.

9. The Board may continue to prescribe Condition No. 9, requiring such banks to adopt resolutions authorizing the interchange of reports and information between the Federal reserve bank and the State authorities; because this is necessarily incidental to that provision of the Federal Reserve Act which authorizes Federal reserve banks to accept reports of examinations made by State authorities in lieu of examinations made by Federal reserve examiners.

III. The Board may continue to prescribe special conditions of membership requiring particular banks upon being admitted to the Federal Reserve System to agree to charge off worthless assets, to reduce certain lines of credit, or to make other adjustments which are necessary to improve the financial condition or management of such bank; because such conditions are pursuant to that provision of the Federal Reserve Act which requires the

Board in acting upon applications for membership to consider the financial condition and management of the applying bank.

IV. The Board may continue to prescribe conditions of membership restricting the exercise of corporate powers inconsistent with the purposes of the Federal Reserve Act; because such conditions are pursuant to that provision of the Federal Reserve Act which requires the Board in acting upon applications for membership to consider whether the corporate powers exercised by the applying bank are consistent with the purposes of the Federal Reserve Act.

V. The legislative history of this amendment indicates that Senator Glass felt that it would prevent the Board from prescribing any conditions of membership restricting the exercise by State banks of the corporate powers granted to them by the States. Congress, however, did not express any such intent; but on the contrary, rejected an amendment which would specifically have done so.

VI. The views of Senator Glass may properly be taken into consideration by the Board in determining its administrative policy; and it would not be inappropriate for the Board to discuss this subject with Senator Glass.

VII. If this subject is discussed with Senator Glass, I respectfully suggest that the Board lay before him an actual case illustrating the importance of this power to the Board and ask his views as to what should be done in such a case.

Respectfully,

(S) Walter Wyatt.
General Counsel.

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REGULATION D, SECTION IV.

(Re-draft to conform to recommendations of Governors' Conference)

"SECTION IV. PENALTIES FOR DEFICIENCIES IN RESERVES

"Inasmuch as it is essential that the law with respect to the maintenance by member banks of the required minimum reserve balances be strictly complied with, the Federal Reserve Board, under authority vested in it by Section 19 of the Federal Reserve Act, hereby prescribes the following rules governing penalties for deficiencies in reserves.

(a) Basic penalty.

1. Deficiencies in reserve balances of member banks in cities where Federal reserve banks or branches thereof are located will be computed on the basis of average daily net deposit balances covering semi-weekly periods. Deficiencies in reserve balances of member banks in reserve cities where there are no Federal reserve banks or branches thereof will be computed on the basis of average daily net deposit balances covering weekly periods. Deficiencies in reserve balances of other member banks will be computed on the basis of average daily net deposit balances covering semi-monthly periods.

2. Such computations shall be made as at the close of business on days to be fixed by the Federal reserve banks with the approval of the Federal Reserve Board.

3. Penalties for such deficiencies will be assessed monthly on the basis of average daily deficiencies during each of the semi-monthly periods ending in the preceding calendar month.

4. Such penalties shall be assessed at a basic rate of 2 per cent per annum above the Federal reserve bank discount rate on ninety day commercial paper, in effect on the first day of the calendar month in which the deficiencies occurred.

(b) Progressive penalty. The Federal Reserve Board will also prescribe for any Federal reserve district, upon the application of the Federal reserve bank of that district, an additional progressive penalty for continued deficiencies in reserves, in accordance with the following rules:

1. When a member bank in a city where a Federal reserve bank or branch thereof is located has an average deficiency in reserves for twelve consecutive semi-weekly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for eight consecutive semi-weekly periods.

2. When a member bank in a reserve city where there is no Federal reserve bank or branch thereof has an average deficiency in reserves for six consecutive weekly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on weekly deficiencies occurring thereafter, until such member bank has maintained the required average reserve for four consecutive weekly periods.

3. When any other member bank has an average deficiency in reserve for three consecutive semi-monthly periods, there shall be assessed, in addition to the penalty at the basic rate, a progressive penalty on semi-monthly reserve deficiencies occurring thereafter, until such member bank has maintained the required average reserve for two consecutive semi-monthly periods.

4. Such progressive penalty shall be at the rate of 1 per cent per annum for the first calendar month in which same is effective and shall increase at the rate of 1 per cent per annum for each consecutive calendar month thereafter in which the bank's reserve deficiencies are subject to the progressive penalty; provided that the maximum penalty charged shall not exceed 10 per cent per annum.

(c) Continued Deficiencies.

Whenever any member bank has an average deficiency in reserves for each reserve computation period during six consecutive months, the Federal Reserve Agent shall promptly report the fact to the Federal Reserve Board with a recommendation as to whether or not the Board should:

1. In the case of a National bank, direct the Comptroller of the Currency to bring suit to forfeit the charter of such National bank pursuant to Section 2 of the Federal Reserve Act; or

2. In the case of a State member bank, institute proceedings to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership pursuant to Section 9 of the Federal Reserve Act; or

3. In either case, take such other action as the Federal Reserve Agent may recommend or the Federal Reserve Board may consider advisable.

OFFICE CORRESPONDENCE COPY Federal Reserve Board

X-4999 102

Date November 1, 1927.

To Federal Reserve Board

From Mr. Wyatt - General Counsel

Subject: Acceptances Growing Out of Transactions Involving the Importation or Exportation of Goods.

The attached report addressed to the Federal Reserve Board under date of October 21, 1927, by the Sub-Committee of the General Acceptance Committee recommends that:

> "That the Board revoke its previous rulings to the effect that a bill cannot be eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a bill growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination, and rule in lieu thereof:
>
> "That bankers acceptance may properly be considered as growing out of transactions involving the importation or exportation of goods when given for the purpose of financing the sale and distribution on usual credit terms of imported or exported goods into the channels of trade, whether or not the bills are accepted after the physical importation or exportation has been completed."

OPINION.

In order for the Board to adopt this recommendation it will be necessary for it to reverse certain of its well established rulings to the effect that a bill cannot be eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a bill growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination. I am of the opinion, however, that the language of the law is broad enough to justify a ruling such as that recommended in the attached report and that the Board may legally promulgate such a ruling if it so desires.

RECOMMENDATION.

Believing that a ruling such as that recommended in the attached report is entirely consistent with the purposes of the Federal Reserve Act and would be helpful in the promotion of our foreign trade,

I concur in the recommendation of the Sub-Committee of the General Acceptance Committee. A proposed draft of a ruling along the lines recommended by the Committee is respectfully submitted herewith.

DISCUSSION.

The question whether the Board may properly make such a ruling depends upon the proper construction of the following provision of Section 13 of the Federal Reserve Act:

> "Any member bank may accept drafts or bills of exchange drawn upon it * * * which grow out of transactions involving the importation or exportation of goods."

This language is very broad and indefinite and is susceptible of different constructions. The Board has heretofore taken the position that Congress intended that the drafts in question should be drawn for the purpose of financing the importation or exportation of goods, and on this theory it has ruled that a bill may not be considered eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a bill growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination. It was argued that when the goods reach their destination the import or export transaction is completed and its financing has necessarily been accomplished.

This principle, however, was adopted by the Board at a time when the acceptance business was new to American banks and the Board was exercising great care to restrict it within narrow and very safe limits. In later years the Board has broadened to some extent its rulings regarding bankers' acceptances and particularly those growing out of the importation or exportation of goods, on the theory that

the acceptance business has developed to a point where greater latitude may safely be permitted and the accepting banks may be given a broader discretion in determining the propriety of issuing bankers' acceptances under varying circumstances. (See printed letter transmitting Regulation A as amended March 29, 1922, page 433, April 1922 Bulletin). The promulgation of a ruling along the line of that recommended above would be a further application of this theory.

The theory heretofore followed by the Board that by acceptances "which grow out of transactions involving the importation or exportation of goods" Congress meant acceptances drawn for the purpose of financing the importation or exportation of goods is entirely plausible and has the added weight of being the accepted interpretation which the Board has placed upon this provision of the Act for several years and was made the basis for several rulings on this subject.

The words "which grow out of transactions involving the importation or exportation of goods," however, are clearly susceptible of a broader interpretation and in my opinion are broad enough to include acceptances arising out of transactions involving imported or exported goods after such goods reach their destination; provided that there is some reasonable connection between such transactions and the importation or exportation.

Thus, where an American exporter of cotton ships cotton to Germany and stores it in his own warehouse in Germany and later sells it from that warehouse to a German spinner, it seems clear that the sale from the warehouse to the German spinner "grows out of" the exportation of cotton from the United States to Germany. The sale of the American

cotton to the German spinner from the warehouse could not take place if the cotton had not first been exported from the United States and placed in the warehouse. Moreover, it is but a continuation and consummation of the export transaction.

Similarly, where an American importer buys foreign goods and, after their arrival in the United States, resells them, it would seem that such resale grows out of the importation of goods within the broad meaning of the Act, and that a draft drawn to finance such resale of the goods might properly be said to grow out of the importation of the goods.

On the other hand, it would seem necessary to place some restriction upon this interpretation; for otherwise it might be argued that all dealings in imported or exported goods, no matter how remote from the original importation or exportation, could be said to grow out of the importation or exportation and thus the principle might be reduced to an absurdity. It was with this thought that the Committee recommended that this principle should be restricted to acceptances "given for the purpose of financing the sale and distribution on usual credit terms of imported or exported goods into the channels of trade". This would seem to confine the financing of the sale and distribution of the goods into the channels of trade and would seem to eliminate the carrying of the goods for unusually long periods, the manufacture of the goods, or their resale subsequent to manufacture.

In a ruling published on page 854 of the 1926 Bulletin, the Board reversed a ruling published on page 610 of the Bulletin for June, 1920, to the effect that "no bank which has purchased a foreign documentary draft may refinance itself by drawing a draft

on a member bank secured by the documentary draft" and ruled in lieu thereof that "such acceptances may be said to come within the broad terms of the provisions of section 13 of the Federal Reserve Act which authorize member banks to accept drafts drawn upon them 'which grow out of transactions involving the importation or exportation of goods', provided that such drafts are drawn before the underlying export transaction is completed." In so ruling, the Board stated that it had carefully considered this question and was of the opinion that its previous rulings on this subject contained an unnecessarily strict interpretation of the law. This in itself was a material broadening of the interpretation which the Board had previously placed upon this provision of the Act and was a departure from the strict application of the principle that such acceptances must be drawn for the purpose of financing the import or export transaction, since the import or export transaction had been financed by means of a documentary draft and the purpose of the acceptance was merely to refinance the bank which had purchased the documentary draft. Before making that ruling the Board had the subject under consideration for many months and had been advised by this office that such a change in its rulings would lead to a change in its fundamental construction of that provision of the Act which authorizes member banks to accept drafts drawn upon them "which grow out of transactions involving the importation or exportation of goods." The Board, therefore, acted with full knowledge of the effect of this action and clearly intended to broaden the strict interpretation which it had theretofore placed upon this provision of the Act. It did not, however, abandon the principle

that in order for an acceptance to be considered one which grows out of a transaction involving the importation or exportation of goods it must be drawn before the underlying import or export transaction is completed. On the contrary, it ruled that, "national banks may not legally accept drafts drawn upon them by other banks against the security of import or export bills of exchange previously discounted by such other banks when such drafts are drawn after the underlying import or export transactions are completed."

To adopt the attached recommendation of the Committee on Acceptances would be a further broadening of the Board's rulings on this subject, but in my opinion would be one which could be much more easily justified than the ruling published on page 854 of the 1926 Bulletin. Where a bill is drawn for the purpose of financing the sale and distribution of imported or exported goods into the channels of trade, it is, in my opinion, much more clearly a bill which grows out of a transaction involving the importation or exportation of goods than is a bill drawn by the bank against the security of a documentary draft for the purpose of refinancing the bank which has purchased the documentary draft.

CONCLUSION.

In my opinion, therefore, the law is broad enough to justify the Board in reversing its previous rulings on this subject and promulgating the ruling recommended in the attached report.

Among the published rulings which would be reversed, in whole or in part, by the promulgation of such a new ruling are the following:

1915 Bulletin, page 276

1917 Bulletin, page 30

1918 Bulletin, page 435

1921 Bulletin, page 699

1924 Bulletin, page 638

1926 Bulletin, page 854

Respectfully,

Walter Wyatt,
General Counsel.

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(PROPOSED RULING OF FEDERAL RESERVE BOARD.)

Acceptances growing out of transactions involving the importation or exportation of goods.

In a number of rulings published heretofore, the Federal Reserve Board has ruled in effect that a bill cannot be eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a banker's acceptance growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination.

After careful reconsideration of this question, the Board is of the opinion that such rulings contain an unnecessarily strict interpretation of that provision of the Federal Reserve Act which authorizes member banks to accept drafts drawn upon them "which grow out of transactions involving the importation or exportation of goods" and which authorizes Federal reserve banks to rediscount such acceptances. The Board is now of the opinion that the broad language of this provision of the Act is clearly susceptible of a more liberal interpretation which would facilitate the financing of our foreign trade and particularly the sale of American goods abroad under circumstances similar to those described in the ruling published on page 638 of the Federal Reserve Bulletin for August, 1924.

The Board, therefore, rules that bankers' acceptances may properly be considered as growing out of transactions involving the importation or exportation of goods when drawn for the purpose of financing the sale and distribution on usual credit terms of imported or exported goods into the channels of trade, whether or not the bills

are accepted after the physical importation or exportation has been completed.

All previous rulings in conflict with this ruling are hereby reversed in so far as they conflict with this ruling.

November 1, 1927.

COPY

X-4999-b

REPORT OF

THE SUB-COMMITTEE OF THE GENERAL ACCEPTANCE

COMMITTEE TO THE FEDERAL RESERVE BOARD

OCTOBER 21, 1927.

The Sub-Committee of the General Acceptance Committee held a meeting in New York on October 21, at which the following were present: Messrs. Zurlinden, Paddock, McKay and Wyatt, Mr. Kenzel chairman, and Mr. O'Hara, secretary

Consideration was given to a proposal to recommend to the Federal Reserve Board certain modifications of its existing rulings with reference to acceptances growing out of the importation and exportation of goods which will make it possible for American banks to accept bills drawn upon them for the purpose of financing such transactions where it is necessary for such bills to be drawn after the goods have reached their destination, in order to conform to usual commercial and credit practices.

After full discussion of the subject and consideration of a statement of facts related by the Chairman substantially as expressed in the accompanying memorandum it was unanimously voted by the Committee to recommend to the Board as follows:

That the Board revoke its previous rulings to the effect that a bill cannot be eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a bill growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination, and rule in lieu thereof:

That bankers acceptance may properly be considered as growing out of transactions involving the importation or exportation of goods when given for the purpose of financing the sale and distribution on

usual credit terms of imported or exported goods into the channels of trade, whether or not the bills are accepted after the physical importation or exportation has been completed.

COPY

MEMORANDUM OF STATEMENT BY THE CHAIRMAN OF THE SUB-COMMITTEE OF THE GENERAL ACCEPTANCE COMMITTEE MADE AT A MEETING OF THE COMMITTEE IN NEW YORK ON OCT. 21, 1927

The question of the manner and extent to which use of American acceptance credit was hindered in competition with foreign credit in financing foreign trade was the subject of inquiry recently made by the Federal Reserve Board of your Chairman.

On a visit to Washington last week, your Chairman explained to Governor Young and to the Federal Reserve Board that, according to his observations and from information gained from interviews with many bankers from England, Holland, Switzerland, Germany, France and Italy, the only practical obstacles lay in rulings of the Board which had the effect of prohibiting bills from being accepted at all by national banks or as eligible by other banks and bankers after the physical exportation or importation of goods was completed.

He stated that these foreign bankers had told him that industry in the industrial countries of the Continent had always had to look to foreign credit for the purchase of imported raw materials and in the export of finished goods; that due to various causes, such credit was required for longer periods than was customary in the United States. Among the causes named were lack of working capital in the American sense, slow transportation, the closing of river navigation during the cold months, and the economic impracticability of industries closing down temporarily or for longer periods, as is frequently done in the United States without serious economic consequences. The combined effect of these conditions requires manufacturers seasonally to carry raw materials for six months of operation and they, accordingly, require credit up to six months with respect to a considerable portion of their purchases.

The fact that banks on the Continent are much more closely identified with the industries than is the general case in America normally permitted them to discount freely for their manufacturing clients and also to procure for them from abroad the additional foreign credit that they required. England, Holland, Switzerland, and to some extent, France, were normally the creditor countries and the first three continue at the present time to extend the kinds of credits for the time required to the Continental industries; generally through the medium of Continental banks.

It was explained that, owing to the higher price levels at the present time as compared with pre-war, the volume of domestic bills in Germany and other industrial sections of the Continent represented a physical volume of goods considerably less, perhaps 75% of the quantity of goods, than would have been represented by an equal amount of bills pre-war, and that, accordingly, the rise in the price level required relatively greater recourse to foreign credit than before the war.

It was explained that both before and since the war it was the practice of London banks and bankers to extend commercial acceptance credit for the benefit of Continental industry and trade freely and that the restrictions in the American practice had doubtless caused a great deal of financing to go to London that otherwise would have come to New York on account of the ability of America to create credit and the lower American discount rates.

The cutting of acceptance commissions by London banks for Continental banks to attract this kind of business to London was also referred to as constituting a substantial competition but one which would not be so serious if American banks could give the credits that the Continental trade requires on terms otherwise equal with London.

Since your Chairman advised the Board in these respects, he has conferred with a considerable number of prominent New York bankers who create the large bulk of American acceptances to inquire of them what in their experience had prevented them from giving acceptance credits abroad such as London bankers habitually grant, and he was informed by each of them that the rule against accepting after goods had arrived in the country of import and the rule against permitting customers to redraw after goods had arrived in the country of import were the only two points upon which they felt their disability depended.

They felt that they would not wish to extend credits in Europe for purely domestic purposes, explaining that by that they meant the purchase of goods of domestic origin, the fabrication of such goods and its sale for domestic consumption within any European country, but that they did feel that they should be permitted to finance through acceptance credits the sale within European countries of goods of origin foreign to those countries, and the fabrication and sale of goods for export. Many of them cited the familiar problem of American cotton which is now sent so largely to European countries on consignment by American shippers and is sold to European spinners out of warehouses in Europe. Spinners require credit of ninety days or more. Under the present rules, American banks can give such credits where the cotton crosses a frontier in Europe, that is, where it is exported from one European country to another, but they cannot give such credits if the cotton is sold to spinners located in the same European country in which it is stored pending sale. A similar negative position arises with respect to cotton which is sold and shipped from America on terms that have become quite usual, i. e., that at the buyer's option he may pay cash on arrival or give ninety days bankers credit. It frequently happens that the cotton has arrived and so the physical export completed before the buyer elects how he shall pay. If he elects to give ninety days bankers credit the banker may not accept the bill if the cotton has arrived at the foreign destination named in the shipping documents.

The American bankers consulted felt that the time has certainly arrived in the development of American acceptance business when American accepting bankers should be permitted the free exercise of their discretion within the law and regulations and that, within those limits, full latitude should be granted them in the accommodation of business as it is done in foreign countries. They stressed particularly the point that they regarded it as preferable to give a three months credit with a renewal for a further period, if it were found that a renewal were required at the expiration of the original period, than to grant the credit originally for a period of six months, and that if the rule against accepting a bill after the goods had arrived were rescinded, the end sought would be practically accomplished without a specific ruling in favor of renewal bills. It was pointed out that from the bankers' point of view it was preferable to be able to review credits at more frequent intervals than is the case when credits up to six months are being insisted upon by the borrower as a precaution against being unable to redraw at the end of a shorter period in case of need even for a small part of the credit.

X-5001

FEDERAL RESERVE BOARD

116

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 18, 1927.

SUBJECT: Expense, Main Line, Leased Wire System, October, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X5001-a and X-5001-b, covering in detail operations of the main line, Leased Wire System, during the month of October, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

TO GOVERNORS OF ALL F.R. BANKS EXCEPT CHICAGO.

Enclosures:

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF OCTOBER, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F.R.Banks (1)	Total	Treasury Department Business	Net Federal Reserve Bank Business	Per cent of total bank Business (*)
Boston	37,230	2,048	39,278	5,506	33,772	3.78
New York	154,902	-	154,902	12,418	142,484	15.97
Philadelphia	44,205	1,880	46,085	4,475	41,610	4.66
Cleveland	81,385	3,065	84,450	5,722	78,728	8.82
Richmond	49,803	4,190	53,993	5,552	48,441	5.43
Atlanta	64,604	2,992	67,596	6,539	61,057	6.84
Chicago	115,169	3,153	118,322	9,784	108,538	12.16
St. Louis	82,326	3,104	85,430	6,115	79,315	8.89
Minneapolis	36,144	3,548	39,692	3,272	36,420	4.08
Kansas City	80,490	3,674	84,164	6,999	77,165	8.65
Dallas	74,935	6,809	81,744	3,987	77,757	8.71
San Francisco	111,177	3,054	114,231	7,006	107,225	12.01
Total	932,370	37,517	969,887	77,375	892,512	100.00
			377,025	95,338	281,687	
			1,346,912	172,713	1,174,199	
			100.00%	12.82%	87.18%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-5001-b)

(1) Number of words sent by New York to other F.R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, OCTOBER, 1927.

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$260.00	-	-	$260.00	$750.48	$260.00	$490.48
New York	974.97	-	-	974.97	3,170.69	974.97	2,195.72
Philadelphia	225.00	-	-	225.00	925.20	225.00	700.20
Cleveland	296.66	-	-	296.66	1,751.13	296.66	1,454.47
Richmond	190.00	-	-	190.00	1,078.07	190.00	1,092.74(&)
Atlanta	270.00	-	-	270.00	1,358.02	270.00	1,088.02
Chicago	3,924.79(#)	-	-	3,924.79	2,414.25	3,924.79	1,510.54(*)
St. Louis	204.06	-	-	204.06	1,765.02	204.06	1,560.96
Minneapolis	193.73	-	-	193.73	810.04	193.73	616.31
Kansas City	275.64	-	-	275.64	1,717.37	275.64	1,441.73
Dallas	251.00	-	-	251.00	1,729.29	251.00	1,478.29
San Francisco	370.00	-	-	370.00	2,384.47	370.00	2,014.47
Federal Reserve Board			$15,338.51	15,338.51			
Total	$7,435.85	-	$15,338.51	$22,774.36	$19,854.03	$7,435.85	$14,133.39
				2,920.33(a)			1,510.54(b)
				$19,854.03			$12,622.85

(&) Includes $204.67 for branch line business transmitted over main line circuit.
(#) Includes salaries of Washington Operators.
(*) Credit.
(a) Received $2,920.33 from Treasury Department covering business for the month of October, 1927.
(b) Amount reimbursable to Chicago.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5002

November 18, 1927.

SUBJECT: Change in Inter-District Time Schedule Upon Opening of Charlotte Branch.

Dear Sir:

There is enclosed herewith Inter-District Time Schedule between Richmond, Baltimore and Charlotte and the other Federal reserve banks and branches, which has been approved by the Federal Reserve Board, effective upon the opening of the Charlotte Branch on December 1, 1927. The Board has been advised by the Richmond bank that this schedule, which is applicable both ways between the points named, has been agreed to by all other Federal reserve banks.

Very truly yours,

Walter L. Eddy,
Secretary.

(Enclosure)

TO GOVERNORS OF ALL F.R. BANKS

	Richmond	Baltimore	Charlotte
Boston	2	2	2
New York	1	1	2
Buffalo	2	1	2
Philadelphia	1	1	2
Cleveland	2	2	2
Cincinnati	2	2	2
Pittsburgh	2	1	2
Atlanta	2	2	1
New Orleans	3	3	2
Birmingham	2	2	2
Jacksonville	2	2	2
Nashville	2	2	2
Chicago	2	2	2
Detroit	2	2	2
St. Louis	2	2	2
Louisville	2	2	2
Memphis	2	2	2
Little Rock	3	3	2
Minneapolis	3	2	3
Helena	5	4	5
Kansas City	3	2	3
Omaha	3	3	3
Denver	4	3	3
Oklahoma City	3	3	3
Dallas	3	3	3
El Paso	4	4	4
Houston	3	3	3
San Antonio	3	3	3
San Francisco	5	5	5
Seattle	5	4	5
Spokane	5	4	5
Portland	5	4	5
Salt Lake City	4	4	5
Los Angeles	5	5	5

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5003

November 18, 1927.

Subject: Code Word Designating
Charlotte Branch.

Dear Sir:-

The Board has been advised by the Federal Reserve Bank of Richmond that its Charlotte Branch will be opened for business on Thursday, December 1, 1927.

Accordingly, the code word "DRAINWELL" has been designated to indicate the Charlotte Branch of the Federal Reserve Bank of Richmond, which word should be inserted in Page 76 of the Federal Reserve Telegraph Code.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F. R. BANKS

FEDERAL RESERVE BOARD

122

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5004

November 19, 1927.

SUBJECT: Bank Salary Recommendations.

Dear Sir:

Will you kindly have prepared and forwarded to the Board, on or before December 10, the recommendation of your Board of Directors for the January 1, 1928, adjustments in the salaries of employees of your bank. The salary schedules submitted should be prepared in accordance with the sample forms attached hereto, which are the same as those used last year. As in the past, the recommendations should cover all employees on the bank's payroll, including those whose salaries are reimbursable to the bank either in whole or in part from notary fees, cafeteria receipts, etc. The recommendations should be accompanied with a statement showing the total salary payments to employees during 1927 (December estimated) and the estimated salary requirements for employees during 1928, classified by functions in accordance with the enclosed form.

In accordance with the Board's letter X-4928 of August 16, 1927, Subject - Annual Election of Officers and Approval of Their Salaries, the recommendation for the January 1, 1928, adjustments in the salaries of officers of the bank should be submitted immediately following the first meeting in January, 1928 of the Board of Directors at which the salaries of officers are fixed subject to the approval of the Federal Reserve Board. The salary recommendation for officers should be submitted in accordance with the attached form. If the bank's counsel is not an officer (does not devote his entire time to the bank), a separate recommendation should

be made covering the annual retainer fee to be paid and any additional compensation for clerk hire or other assistance.

The recommendations for adjustments in the salaries of officers should be accompanied with a detailed statement of the budget approved for the bank (and for each branch, if any) for the calendar year 1928, or for the first half of 1928 in case the budget is prepared on a semi-annual basis. It is the understanding of the Board that in the case of most banks the budget is prepared on the basis of the bank's departmental organization and, if so, it should be submitted on that basis, regardless of whether or not the bank's organization corresponds with the groupings in the functional expense report. The budget statement as submitted to the Board should show actual expenditures during the year 1927 by departments and divisions or other operating units and estimated expenditures during 1928 (or expenses for the first half of 1927 as compared with the budget for the first half of 1928), the figures to be in the same detail as approved by the bank's budget committee.

Very truly yours,

J. C. Noell,
Assistant Secretary.

(Enclosures)

TO CHAIRMEN OF ALL FEDERAL RESERVE BANKS.

NAMES AND SALARIES OF OFFICERS, DECEMBER 31, 1927, AND AS PROPOSED FOR 1928.

Federal Reserve Bank - Branch_____

Name	Title	Functions supervised	Annual Salary Dec.31,1927	Annual Salary Proposed for 1928

Total, ___officers

NAMES AND SALARIES OF EMPLOYEES RECEIVING MORE THAN $2,500 PER ANNUM.

(Employees recommended for salaries in excess of $2,500 should also be included in this report)

Federal Reserve Bank - Branch_____, Dec. 1, 1927.

Name	Title	Functions to which assigned	Present annual salary	Proposed salary Jan. 1, 1928.

Total, _____ employees

X-5004-c

NAMES AND SALARIES OF EMPLOYEES RECEIVING $2,500 OR LESS PER ANNUM.

(Employees recommended for salaries in excess of $2,500 should not be included in this report).

Federal Reserve Bank - Branch _____, Dec. 1, 1927.

Name	Title	Salary on Jan. 1, 1927*	Proposed salary Jan. 1, 1928
	_____function		

Total, _____employees

NOTE: Employees should be grouped according to the functions given in the functional expense report, form E, and totals shown for all functions. An employee assigned to more than one function should be listed in the function to which he devotes the greater part of his time, with a note indicating in what other functions he is employed. The report should not include extra help or temporary employees, but it should include all regular employees whose salaries are reimbursable to the bank either in whole or in part. In the case of employees who are on a per diem or hourly basis, the estimated total annual compensation should also be shown.

*If hired during 1927, please show the initial salary.

SALARIES* PAID EMPLOYEES DURING 1927 AND ESTIMATED PAYMENTS DURING 1928

Federal Reserve Bank (including branches) _____

Functions (Form E classification)	Paid during 1927 (December estimated)	Estimated payments during 1928
General Overhead		
Provision of Space		
Provision of Personnel		
General Service		
Failed Banks		
Loans, Rediscounts and Acceptances		
Securities		
Currency and coin		
Check collections		
Non-cash collections		
Accounting		
Fiscal Agency		
Legal		
Auditing		
Bank Relations		
Federal Reserve Note Issues		
Bank Examination		
Statistical and Analytical		
Total		

*Includes extra help, overtime and supper money.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5007

November 25, 1927.

SUBJECT: Inter-District Time Schedule Upon Opening of Charlotte Branch.

Dear Sir:

Confirming the advice contained in the Board's telegram of November 22nd (No. 838), the Board has been informed by the Federal Reserve Bank of Richmond that the time schedule transmitted with the Board's letter of November 18, 1927 (X-5002), between Richmond, Baltimore and Charlotte and other Federal reserve banks and branches, to be effective upon the opening of the Charlotte Branch on December 1, 1927, was intended to apply only one way, namely, from the Fifth Federal Reserve District to the other Federal reserve points.

As requested in the Board's telegram of November 22nd, all Federal reserve banks have submitted and the Board has approved time from their offices to Charlotte as shown in the enclosed schedule. None of the Federal reserve banks have suggested changes in their existing schedule to Richmond and Baltimore.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO ALL GOVERNORS

(Enclosure)

FROM	TO CHARLOTTE
Boston	2
New York	2
Buffalo	2
Philadelphia	2
Cleveland	2
Cincinnati	2
Pittsburgh	2
Atlanta	1
New Orleans	2
Birmingham	2
Jacksonville	2
Nashville	2
Chicago	2
Detroit	3
St. Louis	2
Louisville	2
Memphis	2
Little Rock	3
Minneapolis	3
Helena	5
Kansas City	3
Omaha	3
Denver	4
Oklahoma City	3
Dallas	3
El Paso	4
Houston	3
San Antonio	3
San Francisco	6
Seattle	6
Spokane	5
Portland	6
Salt Lake City	5
Los Angeles	5
Richmond	1
Baltimore	1

FEDERAL RESERVE BOARD

STATEMENT FOR THE PRESS

For release in morning papers,
Monday, November 28, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of October and November, as contained in the forthcoming issue of the Federal Reserve Bulletin.

Industry and trade were less active in October than in the preceding month and were in smaller volume than a year ago. The general level of wholesale commodity prices showed a further slight advance.

Production

Production of manufactures declined in October, contrary to the usual seasonal tendency, while the output of minerals remained in practically the same volume as in September. In October and November, activity of iron and steel mills and of automobile plants was smaller than at any previous period of the year. There were also decreases during October in cotton consumption and in the production of building materials, crude petroleum, and boots and shoes. The output of bituminous coal and the number of hogs and cattle slaughtered increased by less than the usual seasonal amount. Production of flour, copper, and anthracite coal showed increases in October. Building contracts awarded increased considerably owing to unusually large awards in New York and Chicago in the last week of the month. The increases were largest in contracts for residential and commercial buildings.

Unusually favorable weather during October in agricultural states resulted in increased yield for late fall crops. The indicated production of corn, according to the November crop report of the Department of

Agriculture, was placed at 2,753,000,000 bushels, an increase of 150,000,000 bushels over the estimate of the previous month and 106,000,000 bushels over the yield a year ago. Larger yields, as compared with the previous month's estimates were also indicated for cotton, tobacco, and potatoes.

Trade

Trade at wholesale and retail showed less than the usual seasonal increase in October. Compared with October a year ago wholesale trade in all leading lines, except meats and drugs, was smaller. Department store sales were approximately 3 per cent smaller than in October, 1926, while those of mail order houses and chain stores were somewhat larger. Inventories of merchandise carried by wholesale firms were smaller in all reporting lines at the end of the month than in September. Compared with a year ago, stocks were smaller in all lines except drugs. Stocks of department stores increased in October in all lines except drugs. Stocks of department stores increased in October in anticipation of the growth in sales that usually occurs in November and December, but at the end of the month they were no larger than a year ago.

Freight car loadings declined in October and the first part of November, and were smaller than in the corresponding period of last year for all classes of freight except grain and grain products.

Prices

Wholesale commodity prices increased slightly in October, continuing the advance which began early in the summer, and the Bureau of Labor Statistics index for October was higher than for any previous month of this year. The advance in the average for all commodities from September to October reflected increases in the prices of livestock, meats, and dairy products. Prices of corn, cotton, coal, metals, paint materials,

and automobile tires, on the other hand, declined. During the first three weeks in November there were increases in the prices of grains, cattle, copper, hides, and rubber, and decreases in hogs, cotton, silk, coal, petroleum, and iron and steel.

Bank credit

Total loans and investments of member banks in leading cities increased by nearly $300,000,000 during the latter part of October and the first half of November, and on November 16 were the highest ever reported. Investments increased by more than $200,000,000, reflecting in large part purchases of Treasury certificates issued on November 15, and loans on securities increased by about $125,000,000. Loans chiefly for commercial and agricultural purposes declined during the period from the seasonal peak reached early in October.

There was a continued increase in the demand for reserve bank credit between October 19 and November 23, arising chiefly out of further exports of gold. Discounts from member banks declined somewhat, while acceptances and holdings of United States Government securities increased.

Conditions in the money market remained moderately easy in November. Call loan rates remained at the leval reached in the latter part of October, and rates on prime commercial paper and bankers' acceptances were unchanged.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5009

November 26, 1927.

SUBJECT: Holidays during
December, 1927.

Dear Sir:

The Havana Agency of the Federal Reserve Bank of Atlanta will be closed on Wednesday, December 7th, Cuban Memorial Day.

On Monday, December 26th, in observance of Christmas, the offices of the Federal Reserve Board and all Federal reserve banks and branches will be closed.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F. R. BANKS.

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release: November 26, 1927.

CONDITION OF ACCEPTANCE MARKET
October 13, 1927, to November 16, 1927.

The acceptance market in New York was exceptionally active during the five weeks ending November 16, with bills in larger supply than in any other period in recent years. The increase in the supply was especially marked in new bills drawn principally against cotton, grain, coffee, and silk. Demand was also large, but unequal to the supply during the early part of the period, with the result that on November 2 dealers' portfolios stood at the highest point since the middle of May, 1926. During the succeeding week, demand improved, however, and at the end of the period the volume of bills in the hands of dealers was considerably reduced. Purchases of bills by banks both for their own account and for account of foreign correspondents were especially heavy during the period. Rates were steady throughout the period with the exception of the first few days when quotations on bills of the longer maturities were slightly irregular. Increased activity also characterized the bill markets in Boston and Chicago. The following table shows rates in the New York market on bills of various maturities at the beginning and end of the reporting period.

ACCEPTANCE RATES IN THE NEW YORK MARKET

Maturity	October 13 Bid	October 13 Asked	November 16 Bid	November 16 Asked
30 days	3 1/8	3	3 1/8	3
60 days	3 1/4	3 1/8	3 1/4	3 1/8
90 days	3 3/8	3 1/4	3 3/8	3 1/4
120 days	3 3/8 -3 1/2	3 1/4 -3 3/8	3 1/2	3 3/8
180 days	3 5/8 -3 3/4	3 1/2 -3 5/8	3 5/8	3 1/2

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5012.

December 2, 1927.

SUBJECT: Acceptances growing out of transactions involving the importation or exportation of goods.

Dear Sir:

There is enclosed for your information a copy of a ruling on the above subject which was adopted by the Federal Reserve Board on November 28, 1927.

By Order of the Federal Reserve Board.

Walter L. Eddy,
Secretary.

Enclosure.

TO THE GOVERNORS AND CHAIRMEN OF ALL FEDERAL RESERVE BANKS.

X-5012-a

RULING ADOPTED BY FEDERAL RESERVE BOARD NOVEMBER 28, 1927.

Acceptances growing out of transactions involving the importation or exportation of goods.

In a number of rulings published heretofore, the Federal Reserve Board has ruled in effect that a bill cannot be eligible for acceptance by a member bank or for rediscount or purchase by a Federal reserve bank as a banker's acceptance growing out of the importation or exportation of goods if it is accepted after the goods have reached their destination.

After careful reconsideration of this question, the Board is of the opinion that such rulings contain an unnecessarily strict interpretation of that provision of the Federal Reserve Act which authorizes member banks to accept drafts drawn upon them "which grow out of transactions involving the importation or exportation of goods" and which authorizes Federal reserve banks to rediscount such acceptances. The Board is now of the opinion that the broad language of this provision of the Act is clearly susceptible of a more liberal interpretation which would facilitate the financing of our foreign trade and particularly the sale of American goods abroad under circumstances similar to those described in the ruling published on page 638 of the Federal Reserve Bulletin for August, 1924.

The Board, therefore, rules that bankers' acceptances may properly be considered as growing out of transactions involving the importation or exportation of goods when drawn for the purpose of financing the sale and distribution on usual credit terms of imported or exported goods into the channels of trade, whether or not the bills are accepted after the physical importation or exportation has been completed.

Due care should be observed, however, to prevent a duplication of financing; and a second acceptance arising out of the same transaction or series of transactions involving the same goods should be in effect merely an extension of an already existing credit. Thus, if one acceptance is issued to finance the shipment of goods to a foreign country and a second acceptance is issued to finance the distribution of such goods into the channels of trade, the proceeds of the second acceptance should be used to retire the first acceptance. Under no circumstances should there be outstanding at any time more than one acceptance against the same goods.

All previous rulings in conflict with this ruling are hereby reversed in so far as they conflict with this ruling.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5014

December 8, 1927.

SUBJECT: Code Word to cover new Issue of Certificates of Indebtedness, Series TD-1928, in Telegraphic Transactions.

Dear Sir:

In connection with telegraphic transactions in Government securities between Federal reserve banks, the code word "BESTIRRED" has been designated to cover the new issue of Treasury Certificates of Indebtedness, dated December 15, 1927, Series TD-1928.

This word should be inserted in the Federal Reserve Telegraphic Code Book following the supplemental code word "BESTIR" at the bottom of page 26.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F. R. BANKS.

X-5016

438

TREASURY DEPARTMENT
Office of the Secretary
WASHINGTON

December 7, 1927.

The Governor,
Federal Reserve Board.

Sir:

You are hereby advised that the Department has referred to the Disbursing Clerk, Treasury Department, for payment, the account of the Bureau of Engraving and Printing for preparing Federal reserve notes during the period November 1, 1927, to November 30, 1927, amounting to $132,060, as follows:

Federal Reserve Notes, Series 1914

	$5	$10	$20	$50	$100	Total
Boston	250,000	100,000	-	-	5,000	355,000
New York	600,000	250,000	-	-	-	850,000
Philadelphia	100,000	50,000	25,000	10,000	-	185,000
Cleveland	200,000	100,000	100,000	25,000	-	425,000
Richmond	200,000	150,000	50,000	-	-	400,000
Atlanta	100,000	200,000	50,000	-	-	350,000
Chicago	200,000	300,000	-	-	-	500,000
St. Louis	150,000	100,000	25,000	-	-	275,000
Minneapolis	-	100,000	25,000	-	-	125,000
Kansas City	-	50,000	-	-	-	50,000
Dallas	-	50,000	50,000	5,000	-	105,000
San Francisco	50,000	-	50,000	-	-	100,000
	1,850,000	1,450,000	375,000	40,000	5,000	3,720,000

3,720,000 sheets @ $35.50 per M $132,060

The charges against the several Federal Reserve Banks are as follows:

Boston	$12,602.50	
New York	30,175.00	
Philadelphia	6,567.50	
Cleveland	15,087.50	
Richmond	14,200.00	
Atlanta	12,425.00	
Chicago	17,750.00	
St. Louis	9,762.50	
Minneapolis	4,437.50	
Kansas City	1,775.00	
Dallas	3,727.50	
San Francisco	3,550.00	$132,060.00

The Bureau appropriations will be reimbursed in the above amount from the indefinite appropriation "Preparation and Issue of Federal Reserve Notes, Reimbursable", and it is requested that your board cause such indefinite appropriation to be reimbursed in like amount.

Respectfully,

S. R. Jacobs,
Deputy Commissioner.

FEDERAL RESERVE BOARD X-5018

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 14, 1927.

Dear Sir:

Through the courtesy of Messrs. Locke, Locke, Stroud and Randolph, I enclose for your information a copy of an opinion rendered November 23rd by the Supreme Court of Texas in the case of Odle v. Barnes.

You will recall that this was a case involving the alleged negligence of the Federal Reserve Bank of Dallas in connection with the collection of a check drawn on the First National Bank of Morgan, Texas, now closed. I have previously forwarded to you a copy of the opinion delivered by the court of civil appeals, (X-4824).

The opinion of the court of civil appeals settled all issues as to the liability of the Federal Reserve Bank, but thereafter, upon motion of the plaintiff, Odle, certain questions were certified to the supreme court concerning the liability of the First National Bank of Ft. Worth, the bank which forwarded the item to the Federal Reserve Bank of Dallas for collection and also the bank upon which the remittance draft taken in settlement of the cash letter to the Morgan bank was drawn. The questions are contained in the opinion, and as you will see, were based upon the theory that perhaps the facts in the case were of such a nature that the act of the Morgan bank in drawing the draft on the Ft. Worth bank constituted an equitable assignment of the funds to its credit with the Ft. Worth bank. The supreme court answered all of the questions favorably to the First National Bank of Ft. Worth.

Very truly yours,

Walter Wyatt,
General Counsel.

Enclosure.

LETTER TO COUNSEL OF ALL FEDERAL RESERVE BANKS.

COPY

140

No. 807-4863.

COMMISSION OF APPEALS.

SECTION B.

J. S. ODLE,

APPELLANT,

vs.

S.C. BARNES, et al,

APPELLEES.

FROM BOSQUE COUNTY,

TENTH DISTRICT.

CERTIFIED QUESTION.

The certificate of the chief justice of the Court of Civil Appeals for the Tenth District, by which we acquire jurisdiction of this case is as follows:

"Appellant J. S. Odle instituted this suit against appellees S. C. Barnes, Farmers Guaranty State Bank of Meridian, hereinafter called Meridian bank, the First National Bank of Fort Worth, herein called Fort Worth bank, and the Federal Reserve Bank of Dallas, herein called Reserve bank, to recover the sum of $345.00. The case was tried in the County Court of Bosque County and judgment rendered for all the defendants. J. S. Odle perfected an appeal to this court, and upon hearing of said appeal the judgment of the County court was affirmed. The case is before us on appellant's motion for rehearing. A brief statement of the pleadings and the findings of fact by this court are set out in the opinion of this court, a certified copy of which will accompany this certificate and shall be considered as incorporated herein for all proper purposes.

"Appellant in his motion for rehearing concedes that the draft drawn by the Morgan bank upon the Fort Worth bank in favor of the Reserve bank for $1850.77 in payment of checks presented to the Morgan bank for payment by said Reserve bank, among which was included the Barnes check upon which this suit is based, did not in itself constitute an assignment of any of the funds on deposit in said Fort Worth bank, but he contends that the drawing of said draft, under the facts of this case, constituted as between the Morgan bank, the bank examiner and the receiver of said bank on one hand, and appellant and the banks acting as his agents

in the collection of said Barnes check on the other hand, an equitable assignment of sufficient of the funds on deposit in the Fort Worth bank to the credit of the Morgan bank to discharge the same, or at least that the same constituted an equitable assignment of sufficient of said funds to pay the amount due him as proceeds of the collection of said Barnes check. He further contends that by virtue of such equitable assignment he became the owner of a sufficient amount of the funds on deposit in the Fort Worth bank to the credit of the Morgan bank to pay him the amount of said check, to-wit, $45.00. He further contends that it became the duty of the Fort Worth bank to remit said amount to him as proceeds of the collection of his said check. His said contentions are more fully set out in his motion for rehearing, which is ordered transmitted herewith and made a part hereof. The transcript and statement of facts in this case are also transmitted herewith for such use as your Honorable Court may see fit to make of the same. Since it is not clear that appellant can secure a review of our action on his motion by application for writ of error, we deem it expedient to certify to your Honorable Court for determination the issues of law so presented, as follows:

"FIRST QUESTION.

"Did the act of the Morgan bank in drawing its draft on the Fort Worth bank in favor of the Reserve bank, constitute, under the facts of this case, an equitable assignment of sufficient of the funds to its credit in the hands of said Fort Worth bank to pay the same or to pay the amount due appellant as the proceeds of the collection of the Barnes check, which proceeds were included in said draft?

"SECOND QUESTION.

"Was it the legal duty of the Fort Worth bank, under the facts in this case, to hold in its hands a sufficient amount of the funds on deposit with it to the credit of the Morgan bank to pay the amount due appellant as the proceeds of the collection of said check, and to remit the same to him as such?

"THIRD QUESTION.

"Should appellant have had judgment against the Fort Worth bank in the trial court under his pleadings and the evidence adduced for the amount of said check, less such dividends as had been remitted and paid to him by appellees on account of such collection?"

It is conceded by all parties, as indeed it must be, that the drawing of its draft by the Morgan bank on the

Fort Worth Bank in favor of the Federal Reserve Bank did not of itself constitute an assignment of any portion of the funds of the Morgan bank on deposit in the Fort Worth Bank. The contention of appellant is that under the circumstances surrounding this transaction the drawing of such draft constituted an equitable assignment of such funds in the Fort Worth bank, at least to the extent of the balance due after deducting the payments received from the defunct bank.

There is nothing shown in the certificate that would take this case out of the ordinary transaction to constitute the draft an equitable assignment of any portion of the Morgan bank deposit with the Fort Worth bank. Indeed, the opinion rendered by the Court of Civil Appeals, which is made a part of the certificate, contains this language:

> "The evidence discloses with reasonable certainty that said draft was received by the Fort Worth bank after the order from the bank examiner stopping payment thereon. There is no evidence that the Fort Worth bank was advised at the time it received or returned said draft that the same represented in part the proceds of the Barnes check."

The first fact thus found by the Court of Civil Appeals discloses a situation that negatives any inference of actual payment by it of the Morgan bank draft, and likewise negatives any right, much less duty, to pay the draft, since at the time of its receipt the order for payment had been countermanded by the agent in charge of the Morgan bank. Payment by it after such payment had been stopped would have been a breach of duty by it, and the circumstances therefore did not justify the holding that in equity there had been a payment.

But the contention of appellant is not technically a notional payment, but rather that he should be protected upon the theory of equitable assignment. Whether or not there was an assignment pro tanto of the funds would depend upon the transaction between appellant and the Morgan bank in drawing its draft, and not upon anything the Fort Worth bank did or did not do. The assignment, if any was effected in law or equity, was the act of the Morgan bank. There is nothing in the record to show that there was anything out of the ordinary in the drawing of this draft against funds on deposit in the Fort Worth Bank. There is nothing to indicate any intention whatever on the part of the Morgan bank that there should be such an assignment. It does not appear to have covered a specific deposit, (as in Hatley v. West Texas Nat'l Bank, 284 S. W. 540), or all of the general deposit, nor is there any other circumstance to take it out of the ordinary transaction, and to save the case from the statute, (Art. 5947, Sec. 189) to the effect that a check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank.

Appellant stresses the incongruity, as well as the hardship, of holding that Barnes' check upon the Morgan bank given in payment of his vendor's lien note held by appellant, was paid, and yet, that he, appellant, is held to have no dominant right in the proceeds of such payment. But this consideration can have no influence upon our answer to the questions certified. Nothing is before us except the questions of law thus propounded, and we of course indicate no opinion

upon the question of payment by Barnes or any other question than the ones here specifically answered.

Our conclusions are not influenced in any wise by a consideration of the opposing rules of agency for collection of checks and drafts, illustrated on the one hand by Tillman County Bank v. Behringer, 113 Tex., 415, 257 S. W. 206, and on the other hand by Douglas v. Federal Reserve Bank of Dallas, (U. S.) 70 L. Ed., 1051. Whether each succeeding collecting bank is to be treated as the agent of the payee or as the agent only of its immediate forwarder, the result would be the same in either instance in this case.

From what we have said it follows that each of the questions propounded should be answered in the negative, and we accordingly so recommend.

OCIE SPEER,

_____

Judge.

The opinion of the Commission of Appeals answering certified questions is adopted and ordered certified to the Court of Civil Appeals.

THOS B. GREENWOOD,
Associate Justice.

Wm PIERSON,
Associate Justice.

Chief Justice Cureton not sitting.

November 23, 1927

FEDERAL RESERVE BOARD

CORRECTED COPY

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5021

December 17, 1927.

SUBJECT: Holidays during January, 1928.

Dear Sir:

On Monday, January 2, 1928, in observance of New Year's Day, there will be no Gold Settlement Fund nor Federal reserve note clearing, and the offices of the Federal Reserve Board will be closed.

On Thursday, January 19th, the anniversary of the birthday of General Robert E. Lee, the following Federal reserve banks and branches will be closed:

Richmond	Nashville
Charlotte	Jacksonville
Atlanta	Louisville
Birmingham	Memphis

Please include your credits of January 19th for the banks affected with your credits for the following business day in the Gold Fund clearing, and make no shipment of Federal reserve notes, fit or unfit, for account of the Federal Reserve Banks of Richmond or Atlanta on January 19th.

On Saturday, January 28th, the Havana Agency of the Federal Reserve Bank of Atlanta will be closed on account of holiday.

Please notify branches.

Very truly yours,

J. C. Noell,
Assistant Secretary.

TO GOVERNORS OF ALL F. R. BANKS.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5022

December 19, 1927.

SUBJECT: Expense, Main Line, Leased Wire System, November, 1927.

Dear Sir:

Enclosed herewith you will find two mimeograph statements, X-5022-a and X-5022-b, covering in detail operations of the main line, Leased Wire System, during the month of November, 1927.

Please credit the amount payable by your bank in the general account, Treasurer, U. S., on your books, and issue C/D Form 1, National Banks, for account of "Salaries and Expenses, Federal Reserve Board, Special Fund", Leased Wire System, sending duplicate C/D to the Federal Reserve Board.

Yours very truly,

Fiscal Agent.

TO GOVERNORS OF ALL F.R. BANKS EXCEPT CHICAGO.

Enclosures:

REPORT SHOWING CLASSIFICATION AND NUMBER OF WORDS TRANSMITTED OVER MAIN LINE OF THE FEDERAL RESERVE LEASED WIRE SYSTEM FOR THE MONTH OF NOVEMBER, 1927.

From	Business reported by banks	Words sent by New York chargeable to other F.R.Banks (1)	Total	Treasury Department Business	War Finance Corporation Business	Net Federal Reserve Bank Business	Per cent of total bank Business (*)
Boston	37,051	1,407	38,458	6,563		31,895	3.72
New York	147,730		147,730	12,126	218	135,386	15.80
Philadelphia	43,671	1,187	44,858	5,904		38,954	4.55
Cleveland	78,760	2,051	80,811	7,437		73,374	8.56
Richmond	50,495	2,777	53,272	6,351		46,921	5.47
Atlanta	60,009	2,090	62,099	9,039		53,060	6.19
Chicago	112,216	3,079	115,295	13,016		102,279	11.93
St. Louis	83,597	2,691	86,288	7,820		78,468	9.16
Minneapolis	36,378	2,839	39,217	4,389		34,828	4.06
Kansas City	83,995	2,792	86,787	8,320		78,467	9.16
Dallas	77,281	6,817	84,098	5,824		78,274	9.13
San Francisco	112,340	2,272	114,612	9,409		105,203	12.27
Total	923,523	30,002	953,525	96,198	218	857,109	100.00
			433,066	160,428		272,638	
			1,386,591	256,626		1,129,747	
			100.00%	18.51%	.01%	81.48%	

(*) These percentages used in calculating the pro rata share of leased wire expense as shown on the accompanying statement (X-5022-b)

(1) Number of words sent by New York to other F.R. Banks for their sole benefit charged to banks indicated in accordance with action taken at Governors' Conference November 2 - 4, 1925.

REPORT OF EXPENSE MAIN LINE
FEDERAL RESERVE LEASED WIRE SYSTEM, NOVEMBER, 1927.

Name of Bank	Operators' Salaries	Operators' Overtime	Wire Rental	Total Expenses	Pro Rata Share of Total Expenses	Credits	Payable to Federal Reserve Board
Boston	$260.00	$ -	-	$260.00	$690.28	$260.00	$430.28
New York	947.97	2.00	-	949.97	2,931.86	949.97	1.981.89
Philadelphia	225.00	-	-	225.00	844.30	225.00	619.30
Cleveland	296.66	-	-	296.66	1,588.40	296.66	1,291.74
Richmond	190.00	-	-	190.00	1,015.02	190.00	1,029.69 (&)
Atlanta	270.00	-	-	270.00	1,148.62	270.00	878.62
Chicago	3,912.75 (#)	1.00	-	3,913.75	2,213.74	3,913.75	1,700.01 (*)
St. Louis	203.00	-	-	203.00	1,699.74	203.00	1,496.74
Minneapolis	199.73	-	-	199.73	753.38	199.73	553.65
Kansas City	275.64	13.13	-	288.77	1,699.74	288.77	1,410.97
Dallas	251.00	2.25	-	253.25	1,694.17	253.25	1,440.92
San Francisco	370.00	-	-	370.00	2,276.83	370.00	1,906.83
Federal Reserve Board			$15,353.35	15353.35			
Total	$7,401.75	$16.38	$15,353.35	$22773.48	$18,556.08	$7,420.13	$13,040.63
				4217.40 (a)			1,700.01 (b)
				$18556.08			$11,340.62

(&) Includes $204.67 for branch line business transmitted over main line circuit.
(#) Includes salaries of Washington Operators.
(*) Credit.
(a) Received $4,214.85 from Treasury Department and $2.55 from War Finance Corporation covering business for the month of November, 1927.
(b) Amount reimbursable to Chicago.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5024

December 21, 1927.

SUBJECT: ASSESSMENT FOR GENERAL EXPENSES OF THE FEDERAL RESERVE BOARD, JANUARY 1 TO JUNE 30, 1928.

Dear Sir:

Confirming telegraphic advice, there is enclosed herewith copy of a resolution adopted by the Federal Reserve Board levying an assessment upon the several Federal reserve banks of an amount equal to eight hundred twenty-two ten-thousandths of one per cent (.000822) of the total paid-in capital stock and surplus of such banks at close of business December 31, 1927, to defray the estimated general expenses of the Board from January 1 to June 30, 1928.

Kindly deposit one-half of the amount of your assessment in the General Account, Treasurer, U. S., on your books January 1, 1928, and one-half March 1, 1928, in each instance issuing a C/D for credit of "Salaries and Expenses, Federal Reserve Board, Special Fund", assessment for general expenses, and sending duplicate C/D to the Federal Reserve Board. Also please furnish a statement of your capital and surplus used as a basis for the assessment.

Very truly yours,

Enclosure.

Fiscal Agent.

(Sent to Chairman of each Federal Reserve Bank)

X-5024-a

RESOLUTION LEVYING ASSESSMENT

WHEREAS, under Section 10 of the act approved December 23, 1913, and known as the Federal Reserve Act, the Federal Reserve Board is empowered to levy semi-annually upon the Federal reserve banks in proportion to their capital stock and surplus an assessment sufficient to pay its estimated expenses, including the salaries of its members, assistants, attorneys, experts and employees for the half-year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half-year; and

WHEREAS, it appears from estimates submitted and considered that it is necessary that a fund equal to eight hundred twenty-two ten thousandths of one per cent of the total paid-in capital stock and surplus of the Federal reserve banks be created for the purpose hereinbefore described, exclusive of the cost of engraving and printing of Federal reserve notes; Now, therefore,

BE IT RESOLVED, That pursuant to the authority vested in it by law, the Federal Reserve Board hereby levies an assessment upon the several Federal reserve banks of an amount equal to eight hundred twenty-two ten thousandths of one per cent of the total paid-in capital and surplus of such banks as of December 31, 1927, and the Fiscal Agent of the Board is hereby authorized to collect from said banks such assessment and execute, in the name of the Board, receipts for payments made. Such assessments will be collected in two installments of one-half each; the first installment to be paid on January 1, 1928, and the second half on March 1, 1928.

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For immediate release: December 23, 1927.

CONDITION OF ACCEPTANCE MARKET
November 17, 1927, to December 14, 1927.

The acceptance market in New York continued active during the four weeks ending November 16, but did not maintain the exceptional turnover which characterized the preceding period. With the exception of that period, however, the supply was the largest in recent years, with drawings against cotton, silk, copper, sugar, and grain predominating. Demand for bills for the investment of foreign balances held in this market was heavy during the period, and related chiefly to longer maturities while domestic demand was moderate and confined chiefly to short bills. Short maturities were also sold to the reserve banks in large volume. Rates remained unchanged throughout the period. The bill market in Boston continued active, in contrast to Philadelphia and Chicago where a quieter tone prevailed. The following table shows rates in the New York market on bills of various maturities at the beginning and end of the reporting period.

ACCEPTANCE RATES IN THE NEW YORK MARKET

Maturity	November 17		December 14	
	Bid	Asked	Bid	Asked
30 days	3 1/8	3	3 1/8	3
60 days	3 1/4	3 1/8	3 1/4	3 1/8
90 days	3 3/8	3 1/4	3 3/8	3 1/4
120 days	3 1/2	3 3/8	3 1/2	3 3/8
180 days	3 5/8	3 1/2	3 5/8	3 1/2

F E D E R A L R E S E R V E B O A R D

STATEMENT FOR THE PRESS

For release in Morning Papers,
Tuesday, December 27, 1927.

The following is a summary of general business and financial conditions throughout the several Federal Reserve Districts, based upon statistics for the months of November and December, as contained in the forthcoming issue of the Federal Reserve Bulletin.

Industrial activity and freight carloadings declined further in November, while retail trade showed more than the usual seasonal increase. The general level of wholesale commodity prices after advancing for four months remained practically unchanged in October and November.

Production.

Output of manufactures and minerals was reduced in November, and the combined index of production, after adjustments for customary seasonal variations, fell below the 1923-1925 average for the first time since 1924. The largest decline was in the output of automobiles owing largely to preparation for production of new models. Iron and steel production has also declined further and in November was the lowest since 1924. In December, however, inquiries for iron and steel increased. Textile mill activity was slightly curtailed in November but continued at a higherlevel than in previous years. There were decreases in the production of coal, building materials, and leather and shoes. Building contract awards showed seasonal declines in November and the first two weeks of December and were slightly smaller than in the corresponding period of last year.

The total value of about fifty crops in 1927 is estimated by the Department of Agriculture at $8,430,000,000, an increase of $635,000,000 over 1926. The greatest increases in value were shown for cotton, corn, barley, and oats, while the largest decrease for any individual crop was shown for potatoes. The physical quantity of production of the seventeen principal crops was about 2

per cent less than last year but 3 per cent above the average of the last ten years.

Trade.

Retail trade increased slightly more than is usual in November. Compared with a year ago, retail trade of department stores, mail order houses, and chain stores was larger, while wholesale trade continued in slightly smaller volume in nearly all reporting lines. Freight carloadings declined during November and in the early part of December were smaller than in the corresponding period for the past four years. There were large decreases in loadings of all classes of commodities.

Prices.

The general level of wholesale commodity prices, as measured by the index of the Bureau of Labor Statistics, after a continuous advance since early in the summer, remained at practically the same level in November as in October. Changes were relatively small in all groups, increases occurring in foods, and hides and leather, and decreases in farm products, textiles, fuels, and building materials. In the first two weeks of December prices of wheat, cattle, hogs, cotton, pig iron, and softwood lumber declined, while those of silk, woolen goods, hides, and sole leather advanced.

Bank Credit.

Between the middle of November and the middle of December total loans and investments of member banks in leading cities showed a considerable increase, reflecting continued growth in the volume of loans on securities and in the banks' investment holdings. In the same period loans chiefly for commercial purposes, which reached a seasonal peak in October, showed a further slight decline.

At Federal reserve banks the seasonal increase in currency requirements and the continued demand for gold for export during the four weeks ending December 21 were reflected in a growth in member bank borrowing. At the end of this period the total volume of reserve bank credit in use was larger than on any other date in the past six years.

Somewhat firmer conditions in the money market in December were reflected in increased rates on call money. Rates on prime commercial paper and bankers acceptances remained unchanged during the month.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-5029
December 27, 1927.

SUBJECT: Correction in Inter-District Time Schedule.

Dear Sir:

At the request of the Federal Reserve Bank of Minneapolis, the Federal Reserve Board has approved a change in the transit time from Minneapolis to Baltimore from three days to two days.

Very truly yours,

E. M. McClelland,
Assistant Secretary.

TO ALL GOVERNORS.

FEDERAL RESERVE BOARD.

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 24, 1926.
St. 5063.

Dear Sir:

The head offices of all the Federal reserve banks having now been in their own buildings for a year or more, the Board's Committee on Salaries and Expenditures has had a table prepared showing the cost of maintaining the Provision of Space function at the head office of each Federal reserve bank for the year ending June 30, 1926. This statement has been prepared in more detail than is shown in the semi-annual functional expense exhibit in order that the Board could have a better comparison between the Federal reserve banks of the cost of maintaining the function.

As it occurs to us that you and the officers and directors of your bank might be interested in comparing the detailed costs shown for your bank with those shown for other Federal reserve banks, we are enclosing herewith three copies of the statement. It should be understood, of course, that this statement does not include such expenses as depreciation or interest on money invested in land and buildings.

Very truly yours,

Geo. R. James, Chairman,
Committee on Salaries
and Expenditures.

LETTER TO ALL CHAIRMEN.

FEDERAL RESERVE BOARD

WASHINGTON

457

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 12, 1927
St. 5438

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of June, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before July 25, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

458

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 14, 1927.
St.5442

SUBJECT: Reports of Condition of State Banks and Trust Companies

Dear Sir:

It will be greatly appreciated if in accordance with your usual practice you will kindly furnish the Federal Reserve Board, as soon as available, with a copy of the abstract of reports of condition of state banks and trust companies in your state on June 30, 1927, or other recent date in case you did not issue a call for reports of condition as of June 30.

In submitting the above mentioned data it is requested that the number of banks be stated and that separate figures be furnished for mutual savings banks providing there are any such banks operating in your state.

A franked and self-addressed envelope, requiring no postage, is enclosed for use in transmitting the data requested.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosure.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

July 14, 1927
St. 5443

SUBJECT: Reports of Condition of State Banks and Trust Companies.

Dear Sir:

It will be greatly appreciated if in accordance with your usual practice you will kindly furnish the Federal Reserve Board, as soon as available, with a copy of the abstract of reports of condition of state banks and trust companies in your state on June 30, 1927, or other recent date in case you did not issue a call for reports of condition as of June 30.

In submitting the above mentioned data it is requested that the number of banks be stated and that separate figures be furnished for mutual savings banks providing there are any such banks operating in your state, also that the figures be segregated by Federal reserve districts.

A franked and self-addressed envelope, requiring no postage, is enclosed for use in transmitting the data requested.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosure.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 16, 1927
St. 5465

SUBJECT: Functional Expenses,
First Half, 1927.

Dear Sir:

There are enclosed herewith copies of the consolidated Functional Expense exhibit for the half year ending June 30, 1927. A copy of the exhibit is also being mailed to the Governor of the bank.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

Enclosure.

LETTER TO CHAIRMAN OF EACH FEDERAL RESERVE BANK*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 16, 1927.
St. 5475

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of July, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before August 26, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

CONFIDENTIAL
Not for publication

St. 5475a

BANK SUSPENSIONS DURING JULY 1927

Name of bank	Location	Date closed	Capital	Deposits*	Class of bank
	DISTRICT NO. 4 - CLEVELAND				
Fayette City Nat. Bank	Fayette City	Pa. July 7	$75,000	$1,975,000	Nat.
	DISTRICT NO. 6 - ATLANTA				
Farmers & Merchants Bank	Cleveland	Ga. July 2	15,000	92,000	Nonmem.
Bank of Adams	Adams	Tenn. July 29	10,000	85,000	"
Bank of Erin	Erin	Tenn. July 14	25,000	100,000	"
	DISTRICT NO. 7 - CHICAGO				
Grabill State Bank	Grabill	Ind. July 11	30,000	170,000	Nonmem.
Farmers State Bank	Kirklin	Ind. July 28	30,000	106,000	"
Alburnett Savings Bank	Alburnett	Iowa July 8	20,000	161,000	"
Arion State Bank	Arion	Iowa July 28	25,000	39,000	"
State Bank of Neola	Neola	Iowa July 15	30,000	345,000	"
Rodney Savings Bank	Rodney	Mich. July 18	10,000	40,000	Non. Prvt
Walker Savings Bank	Walker	Iowa July 15	20,000	161,000	Nonmem.
Lafayette County St. Bank	Darlington	Wis. July 13	25,000	253,000	"
	DISTRICT NO. 8 - ST. LOUIS				
Desha Bank & Trust Co.	Arkansas City	Ark. July 21	103,000	642,000	Nonmem.
Desha County Bank	Watson	Ark. July 27	18,000	66,000	"
Dresden Bank	Dresden	Tenn. July 18	35,000	178,000	"
	DISTRICT NO. 9 - MINNEAPOLIS				
First National Bank	E. Grand Forks	Minn. July 23	50,000	663,000	Nat.
State Bank of Cobden	Cobden	Minn. July 21	10,000	123,000	Nonmem.
Crookston State Bank	Crookston	Minn. July 15	40,000	540,000	"
Farmers State Bank	Gatzke	Minn. July 9	10,000	44,000	"
Mapleton State Bank	Mapleton	Minn. July 5	15,000	292,000	"
Millerville State Bank	Millerville	Minn. July 23	10,000	93,000	"
Tabor State Bank	Tabor	Minn. July 16	10,000	74,000	"
Mountrail Co. State Bank	Lostwood	N.D. July 18	10,000	50,000	"
Far. & Merchants Bank	Manitou	N.D. July 19	10,000	38,000	"
American State Bank	Burke	S.D. July 20	40,000	257,000	"
State Bank of Grover	Grover	S.D. July 30	15,000	102,000	"
State Bank of Cyclon	Cyclon	Wis. July 2	10,000	45,000	"
Wheeler State Bank	Wheeler	Wis. July 5	20,000	173,000	"
	DISTRICT NO. 10 - KANSAS CITY				
Angola State Bank	Angola	Kans. July 14	10,000	81,000	Nonmem.
Horace State Bank	Horace	Kans. July 9	10,000	52,000	"
Commercial State Bank of Mt. Washington	Fairmount	Mo. July 22	10,000	71,000	"
Bridgeport Bank	Bridgeport	Neb. July 13		Not available	"
Minatare Bank	Minatare	Neb. July 15	25,000	243,000	"
Platte Valley State Bank	N. Platte	Neb. July 29		Not available	"
American State Bank	Scotts Bluff	Neb. July 29	50,000	1,000,000	"
Deposit Guaranty St. Bank	Ponca City	Okla. July 8	25,000	350,000	"

TOTAL FOR ALL DISTRICTS - 36 Banks - Capital $851,000 - Deposits $8,704,000

*Latest available figures, taken from Form X-4401, if received, otherwise from Rand McNally Banker's Directory or condition reports.

C O N F I D E N T I A L
Not for publication

St. 5475b

SUSPENDED BANKS REOPENED DURING JULY 1927

F. R. District number	Name and location of bank			Date closed	Date Reopened	Class of bank
6	Farmers Bank & Tr. Co.	Vero Beach	Fla.	1-27-27	7- 2-27*	Non.
7	Louisa County National Bk.	Columbus Junction	Ia.	6-10-27	7- 9-27	Nat'l.
9	Borgerding State Bank	Melrose	Minn.	2-23-27	7-26-27	Non.
	Security State Bank	Doland	S. D.	8-10-26	7-15-27	"

*Reopened as Farmers Bank of Vero Beach.

CORRECTIONS TO BE MADE IN PREVIOUS LISTS SHOWING BANK SUSPENSIONS OR OF SUSPENDED BANKS REOPENED

June list of bank suspensions
To be added to the list:

Cooperative Banking Ass'n., Marmaduke, Ark., - District No. 8 - nonmember, capital $25,000, deposits $23,000. Closed June 16, 1927.

June list of banks reopened
To be added to the list;

Lewis County Exchange Bank, Lewistown, Mo., District No. 8 - nonmember, closed May 14, 1927, reopened June 16, 1927.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

August 19, 1927
St. 5479.

SUBJECT: Condition of Member Banks
as of June 30, 1927.

Dear Sir:

For your information there is enclosed herewith a preliminary statement regarding the condition of all member banks combined as of June 30, 1927. The Board's Member Bank Call Report (No. 36) showing detailed figures for all member banks and for State bank members will be ready for distribution in the near future.

Very truly yours,

E. M. McClelland,
Assistant Secretary

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 9, 1927.
St. 5498

SUBJECT: Member Bank Call Report showing Condition of All Member Banks on June 30, 1927.

Dear Sir:

We are forwarding to you under separate cover copies of the Board's Member Bank Call Report No. 36, showing the condition of all member banks on June 30, 1927. Please forward a copy to each member bank in your district that has expressed a desire to receive copies of call reports as issued.

Very truly yours,

J. C. Noell,
Assistant Secretary.

LETTER TO ALL F. R. AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 12, 1927
St. 5502

SUBJECT: Reports of Deposits of Member Banks, Form St. 3501.

Dear Sir:

On May 11, 1923, the Board in its letter St. 3502 asked the Federal reserve agents to submit monthly reports (on form St. 3501) of deposits of member banks in each state in their districts, classified according to certain population groups. The Board's letter on this subject stated that in the compilation of the data cities and towns should be grouped in accordance with a list enclosed therewith, which was based on the latest census figures and showed all cities and towns with a population of 5,000 or over. It is assumed that the reports for all districts are still being compiled in accordance with this population classification, even though some of the cities may have moved into a different population group.

The question has arisen as to whether or not revisions in the grouping of cities should be made currently when a city moves from one population group to another, or when adjoining towns are consolidated with larger cities, as for instance, the consolidation of the towns of Hollywood, San Pedro, Sawtelle, and Venice, with Los Angeles. If the figures for places that have heretofore been included in the smaller population groups should be added to the figures in the other groups, the comparability of the figures for the smaller population groups might be seriously affected, and for this reason the Board prefers to have such changes made only at rather long intervals, probably after each decennial census.

Very truly yours,

Walter L. Eddy,
Secretary.

LETTER TO ALL F. R. AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 14, 1927.
St.5504.

SUBJECT: Float carried by the Federal Reserve Banks.

Dear Sir:

The Board has under consideration the float carried by the system as a result of the operation of the check collection function and in this connection is desirous of obtaining information, first as to the states or parts of states on which the reserve banks are carrying float, and second, as to the groups of banks which are being benefited thereby. Such information seems necessary to a thorough understanding of the float problem as it now exists and accordingly forms have been prepared with a view to making possible such an analysis of the float for a period of one week. It will be appreciated if your bank will keep the necessary records during this period to enable it to furnish the Board with the figures called for by the forms.

While it is preferable to have the analysis based on the dates of availability of items, i.e., the dates on which credit is given by the reserve bank, and the enclosed sample forms A, B, C, D, and E were drawn up on that basis, it is recognized that it may be difficult for some of the banks to compile the information on this basis. In case, therefore, a bank finds that the work involved would be reduced materially by compiling the figures on the basis of its sendings each day instead of its total credits each day, it may render reports for the head office and its branches, if any, on the basis of daily sendings, but in that event the week September 26 to October 1 must be substituted in place of the week October 3 to 8 shown on the forms. Also the words "availability date" in the heading over the first column must be changed to "date sent" and the words "Total amount credited" in the heading over the second column must be changed to "Total amount sent."

You will note that forms A, B, and C relate to cash items sent either by your own bank or by direct-sending banks in your district to other Federal reserve banks and their branches. It will be necessary to use a separate sheet of each of these forms for each other Federal reserve bank and branch (including own head office or branches) to which items are sent.

Forms D and E relate to cash items drawn on member and nonmember banks in your own district. A separate sheet should be used for reporting

items drawn on banks in each Federal reserve bank and branch city, and for checks drawn on all other banks in each state within the territory assigned to the Federal reserve bank or branch. These forms also provide for showing (as a memorandum at the bottom) the amount of float the bank or branch is carrying as a result of accepting remittances not immediately available in settlement for cash letters.

Form F is designed to show the source from which all items handled by each Federal reserve bank or branch are received. It will be noted that form F is to be compiled on the basis of the dates the items are received by the reserve bank regardless of whether or not forms A, B, C, D, and E, are prepared on the basis of the dates credit is given by the reserve bank or the dates it receives the items.

In the preparation of the enclosed forms we have consulted with representatives of three of the reserve banks with the object of having the forms prepared in such a way as to be easily understood by those in charge of the transit departments and of keeping the additional work involved in compiling the data down to a minimum.

Return items and non-cash collection items should be disregarded in the preparation of the reports.

In view of the different methods of accounting followed in connection with the operation of branches, it is likely that some branches will be unable to compile a part of the data called for by forms A, B, and C. Reports on these forms for inter-district items may be omitted, therefore, by such branches, provided the transactions of the branches are included in the reports of the head office; and reports on these forms on intra-district items may be omitted by both head office and branches, provided the collecting office takes up such items on forms D and E according to the date credit was actually given to the member bank.

The Board understands the Standing Committee on Collections is at work upon a revised time schedule which may be presented at the next Governors' conference in October. It is thought that the information requested above may be helpful in a study of this problem, and it is requested, therefore, that the information be compiled and the reports forwarded to this office as promptly after October 8 as possible. Your kind cooperation in compiling this information will be greatly appreciated.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

LETTER TO GOVERNOR OF EACH FEDERAL RESERVE BANK*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

September 14, 1927.
St. 5505.

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of August, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before September 25, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON October 11, 1927
St. 5528

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

SUBJECT: Condition Reports of State Member banks,
Form 105.

Dear Sir:

There are being forwarded to you today under separate cover copies of form 105. Please mail three copies of the form to each State Bank and Trust Company member in your district with instructions to hold the blank forms pending receipt of a call for condition reports. Upon receipt of notice from the Board of the call for condition reports, kindly notify the banks thereof by mail and request them to fill out the reports and mail them to you promptly - in no case later than 10 days after receipt of the call.

In order that the compilation of the Board's member bank call report may not be unduly delayed, it is requested that the condition reports be forwarded to the Board as soon as practicable after they are received by the Federal reserve bank. If it is necessary to communicate with a bank regarding apparent errors in its report, a note to that effect should be made on the report itself before it is mailed to the Board, and the Board should be advised of the necessary corrections when the desired information is received from the member bank.

It is important that these reports be completely filled out in all cases and particular attention is invited to the requirement that the reporting bank insert an amount or the word "none" against each item both on the face and on the reverse side of the report. In case a bank fails to comply with this requirement, it is requested that it be asked for the information necessary to complete the report and that such information be furnished the Board.

Very truly yours,

Walter L. Eddy,
Secretary.

LETTER TO ALL F. R. AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 14, 1927,
St. 5538.

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of September, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before October 26, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 26, 1927,
St. 5546.

SUBJECT: Reports of Condition of State Banks and Trust Companies.

Dear Sir:

It will be greatly appreciated if in accordance with your usual practice you will kindly furnish the Federal Reserve Board, as soon as available, with a copy of the abstract of reports of condition of state banks and trust companies in your state on October 10, 1927, or other recent date in case you did not issue a call for reports of condition as of October 10.

In submitting the above mentioned data it is requested that the number of banks, exclusive of branch banks, be stated and that separate figures be furnished for mutual savings banks providing there are any such banks operating in your state.

A franked and self-addressed envelope, requiring no postage, is enclosed for use in transmiting the data requested.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosure.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 26, 1927,
St. 5547.

SUBJECT: Reports of Condition of State Banks and Trust Companies.

Dear Sir:

It will be greatly appreciated if in accordance with your usual practice you will kindly furnish the Federal Reserve Board, as soon as available, with a copy of the abstract of reports of condition of state banks and trust companies in your state on October 10, 1927, or other recent date in case you did not issue a call for reports of condition as of October 10.

In submitting the above mentioned data it is requested that the number of banks, exclusive of branch banks, be stated and that separate figures be furnished for mutual savings banks providing there are any such banks operating in your state, also that the figures be segregated by Federal reserve districts.

A franked and self-addressed envelope, requiring no postage, is enclosed for use in transmitting the data requested.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosure.

FEDERAL RESERVE BOARD

November 2, 1927,
St. 5556.

WASHINGTON

SUBJECT: Forms for use during 1928.

Dear Sir:

It will be appreciated if you will kindly advise the Board at your early convenience the number of copies of the forms listed below that will be required by your bank (including branches, if any) during the calendar year 1928.

Form Number	Title
34	Daily balance sheet. Please state the number required for the head office and each branch separately and also give any special punching that may be desired.
F. R. A. - 5	Daily statement of Federal reserve agent.
E	Semi-annual functional expense report.
38	Classification of discounted and purchased bills held at the end of the month.
95	Monthly report of earnings.
96	Monthly report of current expenses.
97	Monthly report of income and expense - Other real estate.
171	Monthly report of average daily holdings of bills and securities, earnings thereon, and annual rates of earnings.

In accordance with the recommendation of one of the Federal reserve banks it is proposed to eliminate the double columns for figures provided on the present form 34 and to widen the spaces between the vertical lines so that an adding machine may be used to insert figures on the new forms. Advice will be appreciated whether this change would adversely affect the preparation of the forms at your bank.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 15, 1927
St. 5570

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of October, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before November 26, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 16, 1927
St.5571.

SUBJECT: Bank Premises Accounting and
Functional Expense Reports.

Dear Sir:

On June 29 the Board forwarded to the Governor of each Federal reserve bank, for comment and recommendations, a report on bank premises accounting and functional expense reports submitted by representatives of six Federal reserve banks, who met with a representative of the Board at Chicago on June 2 and 3, 1927. After carefully considering the replies of the Governors, the Board has decided to approve the report, a copy of which is enclosed herewith, as submitted with the exception of recommendation 2A - Alterations for tenants. In lieu of recommendation 2A, the Board has approved the following: "The cost of repairs and alterations made for the use of tenants should be amortized against earnings (rent received) over the period of the lease for the premises affected, unless the amount involved is relatively small, in which case the cost may be charged directly against rent received. Rental commissions should be amortized over the period of the lease, unless paid monthly or of a relatively small amount, when they may be charged directly against rent received."

It will be appreciated if, before the closing of books at the end of the year, your bank will make any adjustments in its accounts which may be necessary in order that they may conform to the recommendations contained in the enclosed report as modified by the above-quoted substitute for section 2A. It is also requested that the cost of all alterations for tenants made during the present calendar year be handled in accordance with the above substitute for recommendation 2A.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO GOVERNORS OF ALL F R BANKS

The Committee appointed to discuss certain questions in connection with accounting of bank premises and functional expense reports, met at the Federal Reserve Bank of Chicago on June 2nd and 3rd, 1927. The members of the Committee present were:

E. L. Smead,	Federal Reserve Board
L. R. Rounds,	Federal Reserve Bank of New York
M. J. Fleming,	Federal Reserve Bank of Cleveland
J. S. Walden, Jr.,	Federal Reserve Bank of Richmond
J. H. Dillard,	Federal Reserve Bank of Chicago
F. C. Dunlop,	Federal Reserve Bank of Minneapolis
J. W. White,	Federal Reserve Bank of St. Louis

The meeting was also attended by G. H. Wagner and A. C. Black, of the Federal Reserve Banks of Cleveland and Chicago, respectively.

Previous to the discussion of the specific topics referred to the Committee, Mr. James of the Federal Reserve Board, and Messrs. Heath, Blair and McKay of the Federal Reserve Bank of Chicago, discussed in a general way the subjects to be considered by the conference, and expressed their opinions regarding various phases of bank premises accounting.

After this informal discussion the Committee considered the following questions:

1. Should the annual depreciation allowances on bank buildings and on fixed machinery and equipment be set up as depreciation reserve or should they be actually charged off?

It was the consensus of opinion that the present procedure of carrying the annual depreciation allowances on buildings and on fixed machinery and equipment as a reserve be continued. The net results obtained under that plan or that of actually reducing the buildings and fixed machinery and equipment accounts each year are practically the same, but it was thought advisable to preserve the replacement cost of buildings and the cost of fixed machinery and equipment on the daily balance sheet of each bank, and deduct the reserve carried against each account showing the net result.

2. What should be the accounting procedure with reference to replacements of fixed machinery and equipment?

It was decided to continue crediting to the reserve account the annual depreciation allowances on fixed machinery and equipment, and to charge the cost of replacements less salvage, if any, to this reserve account. Should the cost of replacements materially exceed the cost of original equipment consideration should be given to the advisability of charging the excess cost to fixed machinery and equipment. When purchases of equipment not included in the original installation are made the cost of such items should be charged to fixed machinery and equipment account.

When the use of any fixed machinery and equipment is discontinued and is not replaced but sold for salvage, the original cost should be credited to fixed machinery and equipment account, and the difference between the original cost and the amount of salvage obtained should be charged to reserve for depreciation account.

Under ordinary conditions some of the Federal Reserve Banks will accumulate within the next ten years a reserve account equal to fixed machinery and equipment account. When they equal each other depreciation allowances should be discontinued until an increase in the fixed machinery and equipment account or a decrease in the reserve for depreciation account occurs. Provision should then be made for annual depreciation allowances in order to increase or restore the reserve account upon a fair depreciation basis.

The classification of certain items as replacements or as repairs and alterations was thoroughly discussed. The Committee appreciated the fact that the amount involved often affects to a great extent the classification determined, but it was the consensus of opinion that if a whole unit is replaced, such an item should usually be considered as a replacement even though the amount involved may seem small. Similar classification should be given to the replacement of part of a unit if the amount involved is large.

2 A - Alterations for tenants.

It was the consensus of opinion that the cost of repairs and alterations made for the use of tenants should be amortized over the period of the lease for the premises affected, as provided in the functional expense manual.

Mr. Dillard did not concur in this opinion, but recommended, in view of the fact that the cost of repairs and alterations for tenants does not add to the value of the building, that the cost of these items be charged to current expense, particularly if the amount is relatively small when compared with the amount of rent to be received; or if the expense incurred in making repairs and alterations for a tenant is large enough to materially affect the current expense account from a comparative standpoint, that this item be carried in a special account and charged direct to profit and loss at the end of the current year in the same manner that we now charge furniture and fixtures.

3. How much, if any, of the data shown in the functional expense reports is it advisable to make public?

It was the opinion of the Committee that it is not advisable to publish data with regard to functional expense reports, but the Committee appreciated the fact that this subject is a matter of policy, and makes no recommendation.

4. Are the indices shown in Memorandum St. 5359 dated May 7, 1927, from the Federal Reserve Board a satisfactory means of measuring the trend in operating efficiency of the Federal reserve banks?

The Committee thought that the indices presented showed a fairly good picture of the trend of expenses in the individual Federal reserve banks and that it would be worth while to prepare such information periodically. It was thought inadvisable to publish figures similar to those shown in the memorandum, but that the memorandum may be used as a basis for general discussion of the System's operating efficiency.

The suggestion to discontinue or simplify functional expense report Form E was presented to the Committee, and this subject was thoroughly discussed.

It was the opinion of each member of the Committee that the functional expense plan had undoubtedly accomplished many beneficial results, and although additional benefits might be derived from the comparison of expenses of the various Federal reserve banks, report Form E would probably not be as valuable in the future as it has been for the past few years.

All of the Federal reserve banks now have in operation a budget for expenses, and in some banks the budget plan has been in operation for some time with the result that as far as those individual banks are concerned the information obtained from the budget is adequate, but it was agreed that the system of budgeting expenses could not be substituted for the functional expense plan at this time.

It was also agreed that the work necessary for the preparation of Form E is a negligible item and its simplification would not provide much of a saving in labor.

It was likewise thought advisable to continue some form of functional expense report and, therefore, the Committee agreed that for the present the functional expense plan now in operation should be continued.

Respectfully submitted,

(signed) M. J. Fleming
L. R. Rounds
J. H. Dillard
F. C. Dunlop
J. W. White
J. S. Walden, Jr.

FEDERAL RESERVE BOARD

WASHINGTON

November 19, 1927
St. 5577.

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

SUBJECT: Closing of Books on December 31, 1927.

Dear Sir:

In accordance with the usual custom it will be appreciated if the resolution of your Board of Directors for the payment of the semi-annual dividend and requests for authority to charge earnings with depreciation allowances, reserves for probable losses, etc., are received at the Board's offices not later than December 10, 1927, and are accompanied with the following information:

1. Estimated gross earnings, current expenses, additions to and proposed deductions from current net earnings, and net earnings available for surplus and franchise tax for the calendar year 1927.

2. Unpaid indebtedness of failed banks to the Federal reserve bank, giving the names of the banks, indebtedness of each on November 30, character of security, if any, and probable loss in the case of each bank.

3. Indebtedness to Federal reserve bank of member banks considered to be in an unsafe condition, giving the names of the banks, indebtedness of each on November 30, character of security, if any, and estimated loss in the case of each bank.

The general procedure followed in the past with reference to charge-offs, depreciation and other reserves, transfers to surplus account and payment of franchise tax, which is covered by the attached memorandum, will be followed at the end of this year.

Very truly yours,

J. C. Noell,
Assistant Secretary.

Enclosure.

LETTER TO ALL CHAIRMEN

GENERAL PRACTICE OF FEDERAL RESERVE BOARD REGARDING DEPRECIATION RESERVES ON BANK PREMISES, RESERVES FOR LOSSES ON PAPER OF FAILED BANKS, AND OTHER CHARGES TO CURRENT NET EARNINGS, AND METHOD OF DETERMINING FRANCHISE TAXES TO BE PAID BY FEDERAL RESERVE BANKS

1. Bank Premises. (a) Land. No charges against current net earnings will be authorized by the Board to cover depreciation on land where the estimated market value of the land is equal to or in excess of its net book value.

(b) Buildings. The Board will in general authorize the banks to charge current net earnings each year with a depreciation reserve on bank buildings, including vaults but excluding fixed machinery and equipment, of not exceeding 2 per cent of their estimated replacement cost, such replacement cost to be determined in a manner approved by the Board. Where the book value of a building is in excess of replacement cost, the Board will consider a request for permission to charge off an amount sufficient to reduce the book value to estimated replacement cost.

(c) Fixed machinery and equipment. The Board will authorize the banks to charge current net earnings each year with a depreciation reserve of not to exceed 10 per cent of the cost of fixed machinery and equipment, such as boilers, engines, dynamos, motors, power pumps, elevators, heating, plumbing, lighting, and ventilating systems, pneumatic tubes, refrigeration plant, automatic fire sprinkler equipment, and vacuum cleaners.

2. Reserves for losses on paper of suspended banks and banks in an over-extended condition. Authorizations to set aside reserves to cover losses on paper of suspended banks or banks in an over-extended condition will be limited to such actual losses, in excess of reserves already carried, as the bank may reasonably be expected to sustain on such paper.

3. Furniture and equipment. It will be the general practice of the Board to authorize the banks to charge off at the end of the year all furniture and equipment purchased during the current year.

4. Other charges to current net earnings. Where a bank desires to set up any reserve other than those mentioned above or to make any other unusual charge against current earnings at the end of the year, full and complete information should be furnished the Board regarding the necessity for such charge.

5. Surplus and franchise taxes. After all current expenses, dividends, depreciation and other reserves, and charge-offs authorized by the Board have been provided for, any remaining net earnings shall be distributed as follows:

(a) Transfer to surplus account all net earnings unless such transfer will result in the bank's surplus account being in excess of its subscribed capital, in which case only such amount should be transferred as is necessary to increase the surplus account to an amount equal to the subscribed capital.

(b) Distribute all available net earnings after the bank's surplus account is equal to its subscribed capital as follows:

(1) Transfer 10 per cent to surplus account.

(2) Pay 90 per cent to United States Government as a franchise tax.

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 22, 1927
St. 5578.

SUBJECT: Float Carried by Federal Reserve Banks.

Dear Sir:

There is enclosed herewith a report on float carried by the Federal reserve banks, compiled from the data on check collections submitted to the Board in accordance with its letter St. 5504 of September 14. After the report has been studied by your transit officials, the Board will appreciate such comments in regard thereto as will be helpful in its consideration of the float problem.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure

TO GOVERNORS OF ALL F R BANKS*

FEDERAL RESERVE BOARD

WASHINGTON

November 23, 1927,
St. 5579

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

SUBJECT: Weekly Member Bank Condition Reports.

Dear Sir:

During the recent conference of Federal reserve agents the subject of member bank condition reports, both the call report, form 105, and the weekly reports, form St. 51, was discussed in some detail and the fact was brought out that a number of state bank members are reporting mortgages and mortgage loans among investments in the weekly reports and among loans and discounts in the quarterly call reports.

From information obtained from the March 23, 1927 condition reports and the weekly reports of the same date, it appears that about 40 state banks are reporting approximately $350,000,000 of mortgages and mortgage loans in investments in the weekly reports and in loans and discounts in the quarterly call reports. Available information does not show to what extent, if any, the same practice is followed by national banks or whether any banks are reporting mortgages and mortgage loans in investments in both reports. In accordance with the terms of the McFadden Act and the Comptroller's regulations thereunder, all real estate mortgages and mortgage loans will be reported by national banks in loans and discounts in their quarterly call reports, and consequently it is proposed to request all weekly reporting member banks to include mortgages and mortgage loans in loans and discounts. While it would be desirable to have all banks report on this basis beginning with January 1928, to do so would sacrifice the comparability of both the loan and discount and the investment figures with those now being reported. As it is especially desirable to avoid this it will be appreciated if in accordance with the plan outlined to you at the recent conference, you will some time between now and December 10 ascertain from each reporting member bank in your district where it is reporting mortgages and mortgage loans, and if it is found that they are being reported in investments, please obtain the amount of such mortgages and mortgage loans so included as of one of the current report dates, preferably November 30.

It is our thought that there will not be more than 50 or 60 banks which are carrying any appreciable amount of mortgages and mortgage loans in investments, and if that proves to be the case we will probably want to have these 50 or 60 banks subdivide the item "Other bonds, stocks and securities" in the weekly reports, to be submitted during 1928, so as to show mortgages and mortgage loans separately from other bonds, stocks and securities. The two items would be combined and shown in our weekly press statements during the year 1928 against the caption "Other bonds, stocks, and securities" as is the present practice. Beginning with January 1, 1929, however, all reporting member banks would be asked to include mortgages and mortgage loans in loans and discounts and the figures for the calendar year 1928 would be revised in order to make them comparable with

the current figures in the 1929 weekly statements. This procedure would enable us to have comparable figures over a period of a year and would afford a basis for estimates for earlier years.

In order that the gathering of the above information may be done with as little disturbance as possible to the reporting member banks, it is believed that each weekly reporting bank in Federal reserve bank and branch cities and in other cities within a reasonable distance of Federal reserve bank and branch cities should be visited by a representative of the Federal reserve bank and information obtained as to how they have been reporting their mortgages and mortgage loans. In the case of towns located some distance from a Federal reserve bank or branch city, it will probably be necessary for you to write the banks a short letter to the effect that you have been making a comparison of the figures in the weekly reports with those in the call reports and would appreciate advice as to whether they have included any mortgages or mortgage loans with investments in the weekly reports, and if so, the amounts included on November 30.

It is essential that this information be available at the Board's offices not later than December 20 in order that the banks from which we may wish to obtain special reports during the forthcoming year may be determined upon and provision made to have such banks furnished with a special form of report so far as the item "Other bonds, stocks and securities" is concerned.

In the above, no reference has been made to investment securities in the form of mortgage bonds or participation certificates issued against mortgages either by mortgage-bond houses or by banks doing a mortgage-bond business. When your representative calls upon the local banks to ascertain how they have been reporting mortgages and mortgage loans, we shall appreciate it if you will also find out whether such banks do purchase mortgage bonds or participation certificates, and if so, how they have been reporting them in their weekly and quarterly condition reports. It will not be necessary, however, to make this inquiry of any of the banks located some distance from the head office, to which you write with reference to their method of reporting mortgages and mortgage loans. Regardless of whether or not the banks in your locality may be holding mortgage bonds and participation certificates, we should like to have your recommendation as to where they should be included in condition reports.

Your kind cooperation in the gathering of the above information will be greatly appreciated.

Very truly yours,

Walter L. Eddy,
Secretary.

TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

November 26, 1927.
St. 5587

SUBJECT: Condition of Member Banks
as of October 10, 1927.

Dear Sir:

For your information there is enclosed herewith a preliminary statement regarding the condition of all member banks combined as of October 10, 1927. The Board's Member Bank Call Report (No. 37) showing detailed figures for all member banks and for State bank members will be ready for distribution in the near future.

Very truly yours,

E. M. McClelland,
Assistant Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

CONDITION OF MEMBER BANKS AS OF OCTOBER 10, 1927.

St. 5587a

Loans and investments of all member banks on October 10 attained the new peak total of $33,451,000,000, showing an increase of $484,000,000 since June 30, the preceding call date. Central reserve city banks reported an increase of $32,000,000 in loans and investments, reserve city banks an increase of $229,000,000, and country banks of $223,000,000. Loans and discounts including overdrafts totaled $23,492,000,000, an increase of $343,000,000 since June 30 and of $585,000,000 since December 31, 1926. The principal changes in this item since June 30 were increases of $132,000,000, $45,000,000, and $35,000,000 in the New York, Boston and Dallas districts, respectively, and a decrease of $6,000,000 in the San Francisco district. Investments in United States securities were $60,000,000 more and in other securities $81,000,000 more than on June 30, a decrease of $143,000,000 in security holdings being reported by banks in central reserve cities, and increases of $123,000,000 by banks in reserve cities and of $161,000,000 by country banks.

Total deposits aggregated $35,450,000,000, an increase of $99,000,000 since June 30 and of $942,000,000 since December 31, 1926. Demand deposits decreased $361,000,000 since June 30, a decrease of $546,000,000 in the New York district and of $26,000,000 in the Cleveland district being largely offset by increases in other districts, of which the largest were $54,000,000 in the Dallas district and $41,000,000 in the Minneapolis district. The decline of $361,000,000 in demand deposits is attributable in part to a decrease in the amount of float carried by member banks, uncollected items having decreased $349,000,000, practically all of which was in exchanges for clearing house and checks on other banks in same place. Time deposits increased $249,000,000 between June 30 and October 10, the principal increases by Federal reserve districts being: New York $94,000,000, Cleveland $45,000,000, and Boston $32,000,000. Amounts due to banks and bankers were $79,000,000 more than on June 30, 1927.

In the attached tables are figures by Federal reserve districts for all member banks and System figures for state bank members and for national banks.

Changes in the principal resources and liabilities as compared with figures for June 30, 1927, and December 31, 1926, were as follows:

		Increase (+) decrease (-) since	
	Oct. 10,1927	June 30,1927	Dec. 31, 1926
Loans & discounts(incl. overdrafts)	$23,492,000,000	+$343,000,000	+$ 585,000,000
United States securities	3,856,000,000	+ 60,000,000	+ 467,000,000
Other bonds,stocks and securities .	6,103,000,000	+ 81,000,000	+ 503,000,000
Total loans and investments . . .	33,451,000,000	+ 484,000,000	+1,555,000,000
Demand deposits	17,374,000,000	-*361,000,000	- 265,000,000
Time deposits	12,459,000,000	+ 249,000,000	+1,019,000,000
Government deposits	436,000,000	+ 218,000,000	+ 202,000,000
Due to banks and bankers	4,203,000,000	+ 79,000,000	+ 149,000,000
Certified and cashiers' checks . .	978,000,000	- 87,000,000	- 163,000,000
Acceptances outstanding	602,000,000	+ 66,000,000	+ 51,000,000
Bills payable and rediscounts . . .	528,000,000	- 13,000,000	- 232,000,000

*Demand deposits plus certified and cashiers' checks outstanding and less exchanges and other uncollected items decreased $98,000,000.

C.

ALL MEMBER BANKS - CONDITION ON OCTOBER 10 AND JUNE 30, 1927

St. 5587b

RESOURCES	State Banks		National Banks	
	October 10	June 30	October 10	June 30
Loans and discounts (including overdrafts)	$9,115,955,000	$9,188,930,000	$14,375,565,000	$13,959,796,000
U. S. securities	1,183,685,000	1,203,233,000	2,672,464,000	2,593,114,000
Other bonds, stocks and securities	2,163,713,000	2,227,001,000	3,939,406,000	3,794,926,000
Total loans and investments	12,463,353,000	12,619,164,000	20,987,435,000	20,347,836,000
Cash in vault	164,943,000	174,699,000	374,194,000	363,157,000
Reserve with F. R. Banks	905,944,000	874,387,000	1,413,792,000	1,406,052,000
Items with Federal reserve banks in process of collection	237,835,000	243,900,000	502,036,000	496,916,000
Due from banks and bankers	493,204,000	499,282,000	1,584,237,000	1,469,044,000
Exchanges for clearing house, and checks on other banks in same place	687,920,000	864,123,000	876,876,000	1,042,819,000
All other resources	1,003,228,000	968,129,000	1,460,721,000	1,434,684,000
Total resources	15,956,427,000	16,243,684,000	27,199,291,000	26,566,508,000
LIABILITIES				
Demand deposits	6,455,862,000	6,818,585,000	10,918,564,000	10,916,659,000
Time deposits	4,870,816,000	4,896,689,000	7,588,432,000	7,313,145,000
U. S. deposits	182,749,000	79,693,000	252,726,000	137,929,000
Certified and cashiers' checks	469,419,000	525,800,000	508,525,000	538,805,000
Due to banks and bankers	1,195,632,000	1,267,980,000	3,007,043,000	2,855,673,000
Total deposits	13,174,478,000	13,588,747,000	22,275,290,000	21,762,211,000
Bills payable and rediscounts	211,885,000	173,206,000	316,330,000	368,042,000
Acceptances outstanding	304,300,000	267,100,000	297,411,000	268,537,000
Capital stock paid in	806,124,000	800,364,000	1,498,584,000	1,473,373,000
Surplus fund	777,151,000	774,252,000	1,272,174,000	1,256,090,000
All other liabilities	682,489,000	640,015,000	1,539,502,000	1,438,255,000

FEDERAL RESERVE BOARD.

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 2, 1927
St. 5594

SUBJECT: Revision of Forms FRA-5 and 34 for 1928.

Dear Sir:

The Public Printer has advised us that the 1928 editions of forms FRA-5 and 34 will be ready for delivery about the middle of December, when they will be promptly forwarded to your bank.

On the daily statement of the Federal reserve agent, form FRA-5, the item "Gold bullion and coin" has been divided into "U. S. Gold coin" and "Gold bullion and foreign coin," and the item "Eligible paper" into "Discounted bills" and "Purchased bills."

On the daily balance sheet, form 34, the item "Gold bullion and coin" has likewise been divided into "U. S. gold coin" and "Gold bullion and foreign coin," and the item "Subsidiary silver, nickels and cents" into "Subsidiary silver" and "Nickels and cents."

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

LETTER TO ALL F R AGENTS *

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 6, 1927,
St. 5597.

SUBJECT: Earnings, Expenses, and Dividends
Reports of State Bank Members.

Dear Sir:

There are being forwarded to you today under separate cover copies of form 107, revised in October 1926, for the use of state bank members in submitting their reports of earnings, expenses, and dividend payments for the six months ending December 31, 1927.

In submitting their June 30, 1927 reports some of the banks failed to furnish the detailed information in regard to interest, which is called for by the form. Please call the attention of these banks to the omission and ask them to use particular care to see that all the information called for by the form is supplied in the December 1927 and subsequent reports. The word "none" should be written or stamped in each space where there is nothing to report.

Very truly yours,

Walter L. Eddy,
Secretary.

LETTER TO ALL F. R. AGENTS.*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 10, 1927,
St. 5604.

SUBJECT: Form F.R.A.-5, Daily Statement
of Federal Reserve Agent.

Dear Sir:

There is enclosed herewith a copy of the 1928 edition of form F.R.A.-5, Daily Statement of Federal Reserve Agent, a supply of which is being sent to you today under separate cover by registered mail.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

Enclosure.

TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 14, 1927,
St. 5608.

SUBJECT: Condition Reports of State Member Banks, Form 105.

Dear Sir:

There are being forwarded to you today under separate cover copies of form 105. Please mail three copies of the form to each State Bank and Trust Company member in your district with instructions to hold the blank forms pending receipt of a call for condition reports. Upon receipt of notice from the Board of the call for condition reports, kindly notify the banks thereof by mail and request them to fill out the reports and mail them to you promptly - in no case later than 10 days after receipt of the call.

In order that the compilation of the Board's member bank call report may not be unduly delayed, it is requested that the condition reports be forwarded to the Board as soon as practicable after they are received by the Federal reserve bank. If it is necessary to communicate with a bank regarding apparent errors in its report, a note to that effect should be made on the report itself before it is mailed to the Board, and the Board should be advised of the necessary corrections when the desired information is received from the member bank.

It is important that these reports be completely filled out in all cases and particular attention is invited to the requirement that the reporting bank insert an amount or the word "none" against each item both on the face and on the reverse side of the report. In case a bank fails to comply with this requirement, it is requested that it be asked for the information necessary to complete the report and that such information be furnished the Board.

Very truly yours,

Walter L. Eddy,
Secretary.

LETTER TO ALL F. R. AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 14, 1927
St.5609.

SUBJECT: Bank Suspensions.

Dear Sir:

There is enclosed herewith a list of member and nonmember banks reported to the Board as having suspended operations during the month of November, and of banks previously suspended which resumed business during the same month. The statement also includes any corrections made in the lists previously sent to you.

It will be appreciated if you will kindly check the data pertaining to your district against your records and advise the Board on or before December 27, by telegraph if necessary, whether or not any corrections or additions are necessary therein, in order that correct summaries by districts may be published in the Federal Reserve Bulletin.

Very truly yours,

Walter L. Eddy,
Secretary.

Enclosure.

LETTER TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 19, 1927
St. 5612.

SUBJECT: Reports of Earnings, Expenses, Dividends, and Franchise Tax Payments for 1927.

Dear Sir:

In order that the Board may have information regarding the financial results of operations of Federal reserve banks during the present calendar year as soon as practicable after January 1, it is requested that a statement be telegraphed or mailed in time to reach the Board's offices on Tuesday morning, January 3, 1928, showing the following information:

(Code)			
EACH -	Gross earnings	$_____	
EADS -	Current expenses	_____	
EARN -	Current net earnings		$_____
ELBA -	Additions to Current net earnings.	_____	
ENID -	Deductions from Current net earnings	_____	
	Net additions to or deductions from current net earnings		_____
EAST -	Net earnings available for dividends, franchise tax, and surplus		_____
EYRE -	Dividends paid		_____
EMET -	Paid to Government as franchise tax		_____
EVEN -	Transferred to surplus account		_____
	Total (to agree with item EAST)		_____
CAPP -	Subscribed capital January 1, 1928		_____
CEDE -	Surplus January 1, 1928		_____

It is also requested that the regular monthly reports of earnings and expenses on forms 95, 96 and 97 be accompanied with an itemized statement showing in detail all additions to and deductions from current net earnings (Profit and Loss account) during the year, and that in addition to the regular balance sheet form 34 for the last day of the year representing the condition of the bank after final closing of the books, a form 34 be submitted showing the condition of the bank at close of business but prior to the making of any adjusting or closing entries.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

TO GOVERNORS OF ALL FEDERAL RESERVE BANKS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 22, 1927
St. 5618

SUBJECT: Member Bank Call Report showing Condition of All Member Banks on October 10, 1927.

Dear Sir:

We are forwarding to you under separate cover copies of the Board's Member Bank Call Report No. 37, showing the condition of all member banks on October 10, 1927. Please forward a copy to each member bank in your district that has expressed a desire to receive copies of call reports as issued.

Very truly yours,

E. L. Smead, Chief,
Division of Bank Operations.

TO ALL FEDERAL RESERVE AGENTS*

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 23, 1927,
St. 5620.

SUBJECT: Branches of Member and Nonmember Banks.

Dear Sir:

With reference to the next to the last paragraph of the Board's letter St. 5120 of October 14, 1926, in which you were requested to submit a report on changes in branch banking semi-annually, you are advised that hereafter this report need be submitted as of June 30 of each year only. No report need be submitted as of December 31, 1927.

You are also advised that it will not be necessary, in future reports, to distinguish between full-fledged branches and so-called teller's windows.

Very truly yours,

Walter L. Eddy,
Secretary.

TO ALL FEDERAL RESERVE AGENTS EXCEPT SAN FRANCISCO*