

BAKER, HOSTETLER & SIDLO
Counsellors at Law
Union Trust Building
Cleveland

August 24, 1927

Mr. Walter Wyatt
Federal Reserve Board
Treasury Building
Washington, D. C.

Dear Mr. Wyatt:-

Under date of August 22 Mr. Vest forwarded to me a copy of Mr. Parker's letter to you of August 19. I have just reread the letter of Mr. Newton of the Federal Reserve Bank of Atlanta to Governor Crisinger of August 3 and also the letter from Mr. Bell to Mr. Newton of August 2. A comparison of these would seem to indicate that while the Samson banks have discontinued the original endorsement "Not payable through Federal Reserve Bank of Atlanta", the same banks have now begun to issue checks marked "Payable in New York exchange at current rates", and that when checks bearing this latter endorsement are presented, they decline to pay at par. The Federal Reserve Bank of Atlanta has adopted the practice of returning these checks to their endorsers without presentation.

It seems to me that Mr. Parker must be right in the view that a check made payable only in exchange is not a check at all, and I should imagine that the inconvenience to bank customers of paper of this sort would be such as to prevent any rapid growth in its use, but history is too full of instances in which people have been persuaded to fight with enthusiasm for their own enslavement to give me any confident feeling that the people in Alabama will not be willing to punish themselves, and particularly their creditors, in order to help these Alabama banks in their effort to collect toll from business, so that we may have to face a growth in this practice. For the time being and until there is some evidence of a tendency in this practice to spread, I think the course now followed by the Federal Reserve Bank of Atlanta, as stated by Mr. Parker, is the wise one. If the practice should grow, I confess I have not thought out any way of combating it but I am keeping the matter in my mind and would be glad to be kept advised of the situation in the atlanta district if any change occurs by way of other banks adopting this practice.

Cordially yours,

(signed) Newton D. Baker

Newton D. Baker.

FEDERAL RESERVE BANK
OF ATLANTA

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August 23, 1927.

SUBJECT: Member Banks Stamping on Cashier's Checks "Not payable through Federal Reserve Bank of Atlanta".

Mr. Walter Wyatt, General Counsel,
Federal Reserve Board,
Washington, D. C.

Dear Walter:

Mr. Bell, Cashier of the Reserve Bank, has read the letter which I wrote you last week with reference to the practice of several Alabama banks of placing on certain of their cashier's and customer's checks a restriction against payment in any medium other than New York exchange.

Mr. Bell thinks that perhaps my letter was misleading in that you might imply therefrom that practically all of the checks which are drawn upon the Farmers & Merchants Bank of Samson contain this restriction. Mr. Bell calls my attention to the fact that a great many of the checks on this bank are drawn without any restriction, and that the Reserve Bank handles such unrestricted checks.

I have thought it best to supplement my recent letter, in order that you may not rest under any misapprehension.

Very truly yours,

(signed) Rbt. S. Parker

Robt. S. Parker.

FEDERAL RESERVE BANK
OF ATLANTA

August 19, 1927.

SUBJECT:--Member Banks Stamping on Cashier's Checks "Not payable through Federal Reserve Bank of Atlanta."

Mr. Walter Wyatt, General Counsel,
Federal Reserve Board,
Washington, D. C.

Dear Walter:

You may recall that on May 25th of this year I wrote you in the above matter, giving you the names of nine Alabama banks which had placed on their cashier's and customer's checks a legend reading in effect "payable in New York Exchange at current rates." In that letter I stated further that all of the banks mentioned, except the First National Bank of Samson, and Slocomb National Bank, Slocomb, had been paying such checks when presented by the Reserve Bank. I also stated that the said First National Bank of Samson and the said Slocomb National Bank had advised that they would not pay checks bearing this notation, at par.

It has this morning been brought to my attention that the Farmers & Merchants Bank of Samson, a State member, has, for the past few weeks, refused to pay at par all checks bearing this restrictive notation. Therefore, the Reserve Bank has been returning to its endorsers checks drawn on the said Farmers & Merchants Bank and restricted to payment in New York exchange.

Some of the checks drawn on said Farmers & Merchants Bank and returned unpaid to the Reserve Bank, showed at the time of return the addition of another notation, viz: a memorandum written in pen and ink on the checks and reading substantially as follows:

"Drawn with restrictions. Return through channels other than Federal Reserve Bank and same will be paid immediately".

Mr. Creed Taylor, Deputy Governor, has today submitted to me the question of whether or not the memorandum or notation to the effect that the check would be paid if presented to the drawee bank by an agency other than the Federal Reserve Bank, should properly occasion any special handling with the Farmers & Merchants Bank, similar to that which was outlined at Cleveland when we had under advisement restrictions on checks against payment through Federal Reserve Banks.

I have told him that, in my opinion, there is quite a difference between the placing on a check of a notation to the effect that the same is not payable through a Federal Reserve Bank and a mere entry on a check, at

the time payment is refused, to the effect that payment would be immediately made upon another presentation through a different agency.

I told Mr. Taylor, however, that I would submit the matter to you. We have no information at present that any banks, other than the several Alabama institutions, the names of which have been furnished you, are adopting this practice, but there is a chance, of course, that others may do so.

It seems to me that there is in fact a wide difference between a check which limits the medium of its payment to exchange and a check which is restricted against presentation through a Federal Reserve Bank. A check which is expressly made payable only in exchange is not a negotiable instrument, in my opinion, and there is a sound reason why the practice of issuing such checks should not gain any very considerable headway. It is true, furthermore, that under the letter of the Alabama statute, with which you are familiar, a bank in that State is purporting to exercise a right given to it by statute when it expressly stipulates that it will pay checks drawn on it only in exchange. We have all decided that a stipulation against presentation through a Federal Reserve Bank is violative of the letter and spirit of the Federal Reserve Act, but it does not seem to me that this could be said with regard to checks which are drawn payable in exchange, whatever else might be said in criticism of such checks.

I am of the opinion, furthermore, that the bank upon which a check, payable only in exchange is drawn, would have the right, at the time of refusing to pay at par to the Federal Reserve Bank, to advise the holder of the check, by notation entered thereon, that payment would be made upon presentation through any agent who could legally collect in New York exchange at current rates.

Of course the widespread use of checks drawn payable in exchange, would be equally as damaging to the Reserve Banks' par collection system as would the use of checks restricted against presentation through Federal Reserve Banks. Therefore, I have thought it best to present the situation to you since at Cleveland we gave comparatively little attention to this phase of the general situation.

As a matter of fact, the practice of drawing non-negotiable checks, payable only in exchange, would seem to be so obviously unsound as a business proposition as to discourage, if not practically prevent, any very general acceptance or adoption.

Only three banks in this District are refusing to pay checks so restricted.

I am advised by the Reserve Bank that it is returning all such

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checks drawn on said three banks without presentation, and this would appear to be the logical thing to do, since it is a certainty that payment would be refused upon presentation by the Reserve Bank, and to do so would only result in delay which might occasion loss.

If, however, you feel that a different handling would be advisable, please advise me.

Thinking that you may wish Mr. Baker to take this matter under advisement, I am, for your convenience, writing this letter in duplicate.

With best personal regards, I am,

Cordially yours,

(signed) Rbt. S. Parker

Robt. S. Parker