

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO  
THE FEDERAL RESERVE BOARD

X-6368

September 16, 1929.

SUBJECT: Holidays during October, 1929.

Dear Sir:

On Saturday, October 12th, Columbus Day (Abraham Baldwin Day at Atlanta) 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.

The offices of the Board and the following Federal reserve banks and branches will be open for business as usual:

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

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

- |          |            |               |                    |
|----------|------------|---------------|--------------------|
| Tuesday  | October 8  | Birmingham    | Fraternal Day      |
| Thursday | October 10 | Havana Agency | Revolution of Yara |
| Friday   | October 11 | Jacksonville  | Farmers' Day       |

Please notify branches.

Very truly yours,

J. C. Noell,  
Assistant Secretary.

TO GOVERNORS OF ALL F. R. BANKS.

COPY

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## DEPARTMENT OF JUSTICE

WASHINGTON

August 28, 1929.

Sir:

I have the honor to comply with your request of June 13, 1929, for an expression of my opinion in regard to the following questions submitted by you:

(1) Whether a State member bank of the Federal Reserve System may, since February 25, 1927, establish a branch in a foreign country and continue to hold stock in a Federal Reserve Bank; and

(2) Whether a State member bank of the Federal Reserve System may acquire a branch in a foreign country by consolidating with a State bank which has absorbed or taken over a liquidating national bank having such a foreign branch established since February 25, 1927, in the manner described, and continue to retain stock in the Federal reserve bank.

You state that the Federal Reserve Board is confronted with the question whether a State member bank of the Federal Reserve System, since February 25, 1927, may establish a branch in a foreign country, or may acquire a branch which has been established since that date, and at the same time continue to hold stock in a Federal reserve bank. It is further stated that a certain State member bank of the Federal Reserve System desires to establish or acquire a branch in a foreign country, and that the bank is authorized under the laws of the State of its organization to establish a foreign branch.

The applicable provision of the Federal Reserve Act is

contained in Section 9 thereof, as amended by the Act of February 25, 1927, c. 191, 44 Stat. 1224, 1229, which provides:

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.

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.

The answers to your questions are found in the construction to be given to the second paragraph of the above-quoted section. If that section has no relation to the establishment of branches in foreign countries by member banks, as contended by attorneys for the applying bank, then the request of the applicant may be granted. However, if the statute means what its language would ordinarily imply, then such State member bank may not now establish a branch, or acquire a branch or branches, established subsequent to February 25, 1927, beyond the limits of the city

or town in which the parent bank is situated, and at the same time retain its stock in the Federal reserve bank.

Where the language of a statute is clear and unambiguous, it is the duty of a court to expound the statute as it stands, even if the consequence works a hardship or injustice. United States v. Algar, 152 U. S. 384, 397; Hamilton v. Rathbone, 175 U. S. 414, 421.

In Lake County v. Rollins, 130 U. S. 662, 670, the Court said:

\* \* \* where a law is expressed in plain and unambiguous terms, whether those terms are general, or limited, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction.

As stated by Mr. Justice Day, speaking for the Court, in Adams Express Co. v. Kentucky, 238 U. S. 190, 199:

It is elementary that the first resort, with a view to ascertaining the meaning of a statute, is to the language used. If that is plain there is an end to construction and the statute is to be taken to mean what it says.

The language of the second paragraph of Section 9 of the Federal Reserve Act, as amended, supra, is plain and unambiguous, and under accepted rules of statutory construction it must be taken to mean what it says, that is, to restrict State member banks in the establishment of branches to the limits of the city, town or village in which the parent bank is situated.

Section 7 of the McFadden Banking Act amending Section 5155 of the Revised Statutes, relating to branches of national banks, contained the following:

(f) The term "branch" as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

It has been contended that this section shows that in dealing with branch banks Congress had in mind only branches or places within the United States, but the underlying words show that the subdivision only dealt with the word "branch" as used in that section and not as used elsewhere.

It is apparent also from the terms of the Act of February 25, 1927, supra, that Congress did consider the question of the establishment of foreign branches because Section 7(g) of that Act provides:

This section shall not be construed to amend or repeal section 25 of the Federal Reserve Act, as amended, authorizing the establishment by national banking associations of branches in foreign countries, or dependencies, or insular possessions of the United States.

Congress made no such specific exception in respect to State member banks.

Section 9 of Bill H. R. 2 - 69th Congress, 1st Session, known as the McFadden Bill, which subsequently became the Act of February 25, 1927, as it passed the House of Representatives, contained an additional ~~paragraph~~ defining the term "branch or branches" as not including "any branch established in a foreign country or dependency or insular possession of the United States." This paragraph was stricken from the Bill by the Senate Committee on Banking and Currency and the statute as finally enacted contained

only the above-quoted exception respecting national banks. The rejection by Congress of a specific provision contained in the Act as originally reported suggests that the Act should not be so construed as in effect to include that provision. Pennsylvania R. R. Co. v. International Coal Mining Co., 230 U. S. 184, 198.

In your second question you request to be advised whether a State member bank may acquire a branch established in a foreign country since February 25, 1927, by consolidating with a State bank which has absorbed or taken over a liquidating national bank having such foreign branch. To answer that question in the affirmative would be to hold that a State member bank may do indirectly that which it may not do directly. Section 9 of the Federal Reserve Act prohibits such bank from acquiring or retaining stock in a Federal Reserve Bank if it should establish or acquire a foreign branch which has been established subsequent to the date of said Act. It is immaterial how the foreign branch is acquired. To acquire one by acquiring the assets of a national bank with a foreign branch is as much within the ban of the statute as if any other method of acquisition were used.

It has also been urged that Congress could not have intended to discriminate against State member banks by denying them what is allowed to National banks, and that no reason for such discrimination is apparent.

Section 25 of the Federal Reserve Act places limitations and conditions on the right of national banks to establish foreign

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branches, and to have allowed State member banks to establish foreign branches, subject only to the provisions of State laws under which they are organized, might have seemed to Congress objectionable. But, however that may be, the words of the statute are explicit, and if any oversight or mistake occurred in framing it, Congress must be looked to for amendment. We cannot disregard its plain provisions.

I have the honor to advise you, therefore, that both of your questions must be answered in the negative.

Respectfully,

(s) William D. Mitchell,  
Attorney General.

The Honorable,

The Secretary of the Treasury.