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June 25, 1930.

Federal Reserve Board  
Treasury Building  
Washington, D. C.

Gentlemen:

I have before me a memorandum from Mr. Walter Wyatt, General Counsel of the Federal Reserve Board, recommending the adoption of certain amendments to Regulation J formulated by the recent Conference of Counsel of Federal reserve banks, and containing certain minor changes of words and punctuation in the interest of clarity made by Mr. Wyatt and me.

During the course of the case of Thomas A. Early, Receiver, v. Federal Reserve Bank of Richmond, I was kept in touch with the issues presented by it and heard the final argument in the Supreme Court of the United States. When the case was decided, I read and analyzed the opinion of the court and became convinced that the decision presented possibilities of grave liability on the part of the Federal reserve banks. When Mr. Wyatt communicated to me your wish that I should sit in with the Conference of Counsel called to consider the questions raised by the Early decision and possible ways of meeting them, I devoted some time to a further and more detailed examination of the questions. Unfortunately other engagements which I could not control made it impossible for me to be present while the Conference of Counsel considered the subject, but I did go to Washington the day after the Conference adjourned and had an opportunity to confer at large with Mr. Wyatt and a number of Federal reserve bank counsel who had remained over. I had previously had supplied to me and studied all letters and memoranda which had been written prior to the Conference and exchanged between Mr. Wyatt's office and the offices of the several Federal reserve bank counsel.

The memorandum of Mr. Wyatt fully and accurately expresses my opinion and I concur in it and in all the recommendations it makes.

It would serve no useful purpose for me to restate the difficulties created by the decision in the Early case as they have been considered by the Board as sufficiently serious to justify the calling of the Conference of Counsel, but I think I should state to the Board that in my opinion the earliest action the Board can take upon these recommendations, consistent with their full consideration, is important. It may be that Board will feel it is already sufficiently advised of the views of the several Federal reserve banks to act without a further reference of the matter to them. If that be not the case, the Federal reserve banks would undoubtedly be

prepared to express their views promptly, as the counsel for the several banks have given this matter very thorough consideration and can lay all of the facts before the officers of the banks without delay. The dangers for the Federal reserve banks created by the decision in the Early case are increasing at this time when banking and business difficulties are common, and the likelihood of efforts to cover losses by imposing liabilities on the Federal reserve banks by applications of the doctrine of this case is manifestly great.

The concurrence I have expressed in the recommendations made in Mr. Wyatt's memorandum, of course, deals primarily with amendments to Regulation J addressed to the difficulties arising from the decision in the Early case. I have, however, also examined the other recommendations and have discussed their purpose and concur in their aptness and desirability.

Respectfully submitted,

Newton D. Baker

NDB:C