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March 13, 1931.

Mr. M. G. Wallace, Counsel,
Federal Reserve Bank of Richmond,
Richmond, Virginia.

My dear Mr. Wallace:

Please accept my thanks for your letter of March 10th with further reference to the case of Skinner and Company v. Federal Reserve Bank of Richmond.

As I advised you during our conference on March 11th, the Comptroller's Office received a letter on that date from the Receiver of the First National Bank of Greenville wherein the Receiver said that the committee which is obtaining the signatures of depositors of the First National Bank of Greenville to the agreement "freezing the deposits" of that bank is making good progress and confidently expects to have all of the depositors signed up within a very short time. The Receiver, therefore, hopes that a State bank will soon be organized to take over all of the assets and assume all of the liabilities of the First National Bank of Greenville; and, of course, if this is done the Skinner case will be dismissed. The Receiver advises further that they have encountered some difficulties with regard to the amount at which the building and fixtures of the First National Bank of Greenville are to be taken over by the new State bank which is being organized to succeed it; but it is hoped that this may be worked out in some way.

I believe that we agreed during our conference on March 11th that it would be undesirable to file further pleadings in this case or to retain special counsel on a system basis in connection with the case pending the outcome of the efforts described above; and that, therefore, you will communicate with counsel for the plaintiffs and ascertain whether it will not be possible to obtain an extension of time within which to file your answer or other pleadings since that would seem to be to the interest of all parties. I shall appreciate it if you will kindly let me know as soon as possible the outcome of your negotiations with counsel for the plaintiff.

With all best regards, I am

Cordially yours,

(S) Walter Wyatt,
General Counsel.

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FEDERAL RESERVE BANK

OF RICHMOND

March 10, 1931

Federal Reserve Board,
Washington, D. C.

Attention: Mr. Walter Wyatt, General Counsel.

Dear Mr. Wyatt:

I have been informed by my associate that the state court has entered an order removing the action of W. I. Skinner and Company v. Federal Reserve Bank of Richmond, et als, to the United States District Court for the Eastern District of North Carolina in the Washington Division. I am not advised as to whether or not the plaintiffs will make a motion to remand or not. I have asked my associate to docket this case on the chancery side of the federal court as it has at least one aspect of a suit in chancery, and the decisions of the federal court seem to establish that a case which has some aspects of a suit in chancery should be primarily treated as a suit in chancery subject to the right of any party to ask for a division of the controversy and for a trial at law upon any controversy which is in substance an action at law.

It occurs to me that in so far as the action is grounded upon the negligence of this bank it is an action of law, but in so far as the plaintiff seeks to establish a lien upon the reserve balance or the collateral in our hands it is a suit in chancery.

You will recall that I suggested to you that it might be possible to deal with this case on a demurrer or a motion to dismiss. After considering the matter more carefully, I have come to the conclusion that a demurrer or motion to dismiss could not be sustained. In so far as the action is one for negligence the plaintiff alleges that we surrendered these checks to a bank knowing that it was insolvent. I am afraid that it would be going a little too far to expect a court to hold that the surrender of checks to a bank known to be insolvent was not negligent. In the other branch of the case it is alleged that we were directed to charge the amount of these checks to the reserve balance of the failed bank and that the balance was sufficient. While this allegation is, I believe, not true, it would, of course, be treated as true on any proceeding in the nature of a demurrer, and I doubt if we could sustain the proposition that a Federal reserve bank was not obliged to charge checks against a balance in its hands if the balance was sufficient and the authority to charge was received before notice of closing was received.

For the reasons stated above I am now inclined to think that it would be best to answer the complaint in this case and to try the matter

Mr. Walter Wyatt,
Federal Reserve Board,
Washington, D. C. -2- March 10, 1931

on evidence. As you know, it was agreed, I believe, that Mr. Baker would be consulted in this case before any definite action was taken. I am therefore writing you my views in order that you may either take the matter up with Mr. Baker or let me know whether or not you wish me to do so.

My associate did not give the exact date upon which the removal was ordered, but stated that he was advised of it on March 7th. I assume that the removal occurred one or two days before that; consequently, our answer should be filed sometime between now and the first of April.

I have no further news with respect to the probability of the completion of the plans for the organization of a new bank in Greenville.

Very truly yours,

(S) M. G. Wallace,
Counsel.

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In view of Wallace's past experience in North Carolina and in view of prime importance of obtaining clear cut decision upholding Regulation J, Series 1930, as well as in view of the allegation contained in the Skinner complaint charging reserve bank with actual or constructive notice of insolvency of drawee I believe that this litigation should be handled as a system matter.

Agnew

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FEDERAL RESERVE BANK

OF MINNEAPOLIS

February 18, 1931.

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

Skinner & Co. vs. Federal Reserve Bank
of Richmond et al.

My dear Mr. Wyatt:

I cannot see how in this case the Malloy case can be successfully invoked against Regulation J as amended, and therefore wired you as I did on the 13th. But now that I have your letters of the 13th and 16th with quotations of what some counsel of other Federal reserve banks say about employing System Counsel, I laid the matter this morning before Gov. Geery, Deputy Gov. Yaeger and Mr. Mitchell, the Chairman of the Board, and they authorized me to say that, as far as this Bank is concerned, they are willing to leave it to the Federal Reserve Board whether or not to retain System Counsel, and that if the Board decides to retain such counsel and the other 11 Federal reserve banks agree to contribute to that expense pro rata on the basis of their respective capital and surplus, this Bank will also contribute on that basis.

Yours very truly,

(Signed) A. Ueland
Counsel.

AU/MG

Law Offices
WILLIAMS, BRITTAIN & SINCLAIR

PHILADELPHIA

February 13, 1931.

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

Dear Mr. Wyatt :

I write in reply to your wire of the 12th and your letter of the 7th, concerning the Skinner case.

As is usual, we shall be very glad to accede to any suggestions made by a majority of the Counsel. Our usual statement in matters of this kind must be repeated, namely, that our lack of litigation in this district makes it difficult for us to give points of view other than those that are purely academic.

Certainly, it is evident from Mr. Wallace's letter, as well as from the bill of complaint, that the validity of the amended Regulation J will be an issue. If possible, our view is that it would be desirable to have such an issue presented in a Federal Court. However, Mr. Wallace and counsel for the receiver of the closed bank would be in a better position to decide this question in view of their knowledge of the practical situation.

The opinion of Mr. Justice Holmes in the Early case appears to us to be based primarily upon the contract between the parties as evidenced by the provisions of Regulation J and the Check Collection Circular issued by the Richmond Bank pursuant thereto. It would seem to follow that if the Regulations have been changed and the Circular modified accordingly, the conclusion should be in accord with the changed Regulations and Circular, unless it should be held that the Federal Reserve Board has exceeded its power in amending the Regulation in the manner recommended by the conference of Counsel.

If you and the other Counsel feel that the case should be a System matter at its inception we shall be very glad to cooperate.

Yours sincerely,

(Sgd.) John S. Sinclair
for Williams, Brittain and Sinclair

GRL