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August 13, 1931.

Mr. John S. Walden, Chairman,
Standing Committee on Collections,
Federal Reserve Bank of Richmond,
Richmond, Virginia.

Dear Mr. Walden:

I have been so overwhelmed with the pressure of urgent official business that last night was the first opportunity I had had to read the tentative draft of the Report of the Standing Committee on Collections on the subject of "Cashing" Government checks and warrants, which was enclosed in your letter of July 22, 1931; and this morning I received your letter of August 12, 1931, enclosing a copy of the final report of the Committee.

I have not yet had an opportunity to study this report carefully but, upon reading it hastily, I certainly am not prepared to approve it. On the contrary, I disagree very strongly with some of the views expressed in the report; I feel that the Committee has not completely covered the entire subject; and I regret very much that the report makes no mention of the question of the treasurer's right to stop payment on such checks after the Federal reserve banks have given immediate credit for them, morely in order to give a special privilege to the payee of the check who has deposited it in a bank about to fail.

The reasons for my disagreement with certain portions of the Committee's report are indicated in my memorandum of April 17, 1931, and I have not time to state those reasons at length in this letter.

I disagree most strongly with the views expressed by the Committee in the paragraph commencing on page 4 of the report, and especially in the view that, "in fairness to the Treasury Department," its action in refusing to define the status of the Federal reserve banks in cashing Government checks is only what might be expected of anyone in the same position and under the same circumstances.

I assume that the Attorney General's opinion referred to is the one resulting from the effort of the Treasury Department to fix upon the Federal reserve banks the loss resulting from the redemption of several million dollars' worth of counterfeit war savings stamps, which were such effective counterfeits that the Treasury Department itself did not discover the fraud until many months after they had been finally paid by the Treasury Department. In that opinion, the Attorney

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General hold that the Federal reserve banks were acting only as agents and could not be hold liable for the loss in the absence of actual negligence on their part. It seems to me that that was a fair and just opinion and that, in fairness to the Federal reserve banks the Treasury Department should clearly define the status of the Federal reserve banks in handling checks and warrants as it did in the circular covering the collections of war savings stamps. This is simple justice, and I cannot think that any honest person, much less the Treasury Department of the United States, could reasonably refuse to define precisely the status of the Federal reserve bank in handling checks and warrants when they are compelled to do so under the law, and when the capacity in which they act has such an important bearing upon what their rights and liabilities are in performing this free service for the Government.

I feel so strongly on this subject that I cannot concur in the Committee's view that "there is little hope that this can be accomplished." On the contrary, I believe that the officials of the Treasury Department are fair enough to clarify this subject whenever a determined effort is made to have them do so and whenever the matter is presented to them clearly and vigorously and not in a half-hearted, "defeatist" spirit.

The Committee seems to lay much stress upon the fact that Federal reserve banks are not required to guarantee prior endorsements when they forward Government checks to the Treasurer of the United States for final payment. I feel, however, that this is of little importance when the Federal reserve banks advance cash or give immediate credit on such checks, and the Treasury reserves the right to refuse to pay them and requires the Federal reserve banks to cash them only for "responsible" banks or bankers.

If it were clearly understood between all parties concerned that, in cashing Government checks and warrants the Federal reserve banks are acting solely as agents of the banks from which such checks are received, I think many of the legal difficulties could be eliminated. This, however, would require amendments to the Treasury circular eliminating all indication that Federal reserve banks act either as depositaries or as fiscal agents for the Treasury, and in my opinion, should be accompanied by discontinuance of the present practice of giving immediate credit for such checks.

On the whole, I think the Committee has made some valuable suggestions based on practical considerations; but I do not believe that this matter can be finally disposed of in a satisfactory manner until it has been considered by a Conference of the Counsel of all of the Federal reserve banks held after advance notice sufficient to give the Counsel an opportunity to study this subject carefully.

I know the Committee has done a lot of hard, conscientious work on this subject and I regret exceedingly that I am unable to agree with its views.

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I believe that the difficulty is that this subject involves both legal questions and practical questions and that the legal and practical aspects of the problem cannot be considered separately but must be considered together. I feel that the Committee has failed to appreciate some of the legal dangers and difficulties; and I am sure that, if this matter had been considered alone by the Counsel to the Federal reserve banks, they would have failed to appreciate some of the practical difficulties.

It was unfortunate that the matter was not referred jointly to the Standing Committee on Collections and to the Conference of Counsel. If it is referred to the Conference of Counsel, I certainly shall invite you and the members of your Committee to attend the Conference.

I note your statement that Counsel for three of the banks have read the Committee's report and expressed favorable opinions regarding it. I am confident, however, that Counsel for several of the other banks will not be satisfied with it, in view of the statements I have heard them make on this subject in the past.

I have been working night and day all summer in order to dispose of a number of very important and urgent matters; and I am planning to go away for a little rest on Saturday, August 15, returning about September 1.

With kindest personal regards and all best wishes, I am

Cordially yours,

(Signed) Walter Wyatt,
General Counsel.

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