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December 2, 1931.

Mr. Fred F. Ressonner, Receiver,
Peoples National Bank,
Pulaski, N. Y.

Dear Sir:

You have been telegraphed today as follows:

"Where pursuant to provisions of Uniform Bank Collection Code or similar State law, Federal Reserve Bank, or other agent collecting bank elects within a reasonable time to treat as dishonored by nonpayment items which have been charged against balances in your bank and remittance, draft for which has either not been issued, or, if issued, has not been paid, you are authorized to surrender the original items involved to the forwarding bank as you found them without affixing or canceling paid stamps or perforations, provided forwarding bank agrees to furnish you without cost photostatic copies of such items for your records. Where items to be returned were charged to depositors' accounts, but not stamped or perforated paid by bank, the following legend signed by you as Receiver of your bank or as Examiner in Charge, as the case may be, should be placed thereon by rubber stamp, or otherwise, before surrendering, quote, I certify that the books and records of this bank evidence that this item was charged to the drawer's account prior to suspension. Unquote. Do not reverse charges made to drawers' accounts. Where electing banks desire items protested locally you are authorized to have this done as their agent and at their expense."

This telegram is hereby confirmed.

Very truly yours,

(Signed) F. G. Awalt

F. G. AWALT,
Deputy Comptroller.

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FEDERAL RESERVE BANK
OF RICHMOND

November 21, 1931

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

Dear Mr. Wyatt:

I should have been much more prompt in replying to your letter of November 6th upon the subject of legal and practical problems arising under the Bank Collection Code. My reason for delaying was that when your letter was received we had already written letters to other Federal reserve banks asking them to let us know what course they were following in handling such matters, and I thought it best to delay my reply to you until I could send you copies of the answers which we received, knowing that you would be interested in having a complete picture of what the different Federal reserve banks were doing in this matter.

We have not as yet received replies from all banks and the recent developments will probably of necessity make the replies which we have received of little interest.

At the same time that we wrote to the other banks I wrote to Mr. Awalt, Deputy Comptroller, stating in substance that I agreed with his office in thinking that the provisions concerning preferences in the Bank Collection Code could not apply to national banks, although, of course, I would not commit myself to any irrevocable admission of that proposition. I also agreed with his office in thinking that possession of the check was of no material consequence in any suit between the parties to it, as possession could constitute only a prima facie evidence of right, which could be rebutted by either side, and the ultimate decision must always depend upon the acts which were done and the applicability of the code to such acts.

Since the Comptroller had offered to have photostatic copies made of all checks at the expense of Federal reserve banks I requested Mr. Awalt as a tentative course to allow all checks to be returned to us upon the agreement that we would have the photostatic copies made in our office and return the originals to the receivers. This suggestion was made, of course, only because many receivers are operating in towns where photostatic copies cannot be made at all or where the charges by local photographers would be excessive, and since this bank has machinery for making photostatic copies in its own office, it can make them at very slight expense. I also requested Mr. Awalt to consider this proposition: That since the possession of the check was, as a matter of law, not essential, the receiver would be as well off with a photostat as with the original, but the business public were in the habit of attaching much importance to actual possession of the instrument and that consequently the sending of a photostat to a commercial bank or a business man would not be as satisfactory as returning the original, and I therefore asked

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

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him to consider modifying his position to the extent of allowing us to return the photostats to the receivers for their files, surrendering the originals to our endorsers.

We have today received a telegram from the Comptroller's office, which I understand has been sent to all Federal reserve banks, stating that in future the original checks will be returned to the forwarding banks when the return is requested with reasonable diligence and protest will be made if requested by the forwarding banks, but the forwarding banks will be required to agree to have photostatic copies made at their own expense and to return such photostatic copies to the receivers.

This arrangement is naturally as satisfactory to us as if the checks were returned unconditionally, as the expense of making photostatic copies in our own plant for the use of the receivers is too trivial to be of moment.

It seems to me that this concession made by the Comptroller is an exceedingly happy solution of the operating problems arising out of the Bank Collection Code. I have suggested to the officers of this bank that in future they either immediately elect to treat as dishonored and demand the return of all checks in the case of a failure of a national bank, or, if they feel that they should allow endorsers some opportunity of expressing their wishes, that on the failure of any national bank they notify endorsers that we will elect to treat as dishonored and procure the return of all checks unless definite instructions to the contrary are received by us on a specified date. Personally, I feel quite sure that the adoption of the latter course will mean that very few, if any, instructions will be received to prove claims, as nearly all endorsers will either do nothing or prefer to have the checks returned.

Referring particularly to your suggestion as to the conference with Counsel, it seems to me when I received your letter that matters had not reached a point at which a conference would be desirable because there were too many questions involved which could not be settled by such a conference. It now seems to me that a conference is unnecessary as claims of this character against state banks are of necessity so involved with local conditions that I do not believe a uniform course of procedure could be successfully adopted. As far as national banks are concerned I believe that all operating difficulties will be eliminated by the new ruling of the Comptroller's office, and the only important questions involved are those of pure law; that is to say, whether or not the code is valid and applicable to a national bank. That question cannot be finally settled except in a suit by a holder against the drawer or an endorser, and when the question is so raised the final word would only be spoken by certain august gentlemen at the other end of the avenue and any resolution of our conference upon it would probably not be very seriously regarded.

Very truly yours,

(SIGNED) M. G. Wallace

M. G. Wallace,
Counsel.

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