

X-7978.

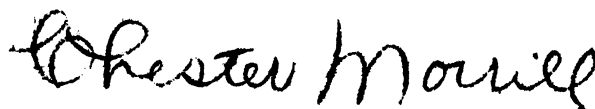
August 10, 1934.

SUBJECT: Correspondence with Attorney General
regarding Section 21 of the Banking
Act of 1933.

Dear Sir:

There are inclosed herewith for your information copies of a letter and its inclosure addressed by the Federal Reserve Board to the Attorney General of the United States and of a reply received from the Acting Attorney General with regard to the necessity for examinations under section 21 of the Banking Act of 1933 of persons who are authorized to receive deposits but are not presently engaged in the business of receiving deposits. You may advise persons interested in similar cases of the substance of the inclosed correspondence but it is suggested that you do not disclose the correspondence or the substance thereof to others.

Very truly yours,



Chester Morrill,
Secretary.

Inclosures.

TO CHAIRMEN OF ALL F. R. BANKS.

Copy.

July 30, 1934.

The Honorable,
The Attorney General,
Washington, D. C.

S I R:

There is inclosed herewith an excerpt from a letter received by the Federal Reserve Board from the Assistant Federal Reserve Agent at the Federal Reserve Bank of Philadelphia, which raises the question whether a person authorized to engage in the business of receiving deposits, but not now engaged in accepting any deposits, is required by section 21(a) (2) of the Banking Act of 1933 to submit to periodic examination and to make and publish periodic reports of condition.

It is the view of the Federal Reserve Board that said section 21(a) (2) does not embrace a person who has not been engaged, since June 16, 1934, "in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor", even though such person was engaged in such business prior to that date. Consequently, the Board feels that the fact that a person is authorized to engage in such a business is not sufficient to bring such person within the scope of the provisions under discussion, and that the person who is the subject of this inquiry and who is not presently engaged in the business of receiving deposits is not required to submit to examination and to make and publish

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The Honorable, The Attorney General

reports of condition.

However, since an expression of opinion by the Board would not prevent a prosecution for violation of such provisions if your Department should take a view contrary to that expressed above, it will be appreciated if you will advise the Board whether you concur in its construction of the provisions of said section 21(a) (2), and whether it is necessary for Spiridion Furcich of Steelton, Pennsylvania, to submit to examination and to make and publish periodic reports of condition so long as such person does not accept deposits of the kind referred to in said section 21(a) (2).

Respectfully,

(Signed) Chester Morrill

Chester Morrill,
Secretary.

Inclosure

Copy

EXCERPT FROM LETTER RECEIVED BY FEDERAL RESERVE BOARD
FROM ASSISTANT FEDERAL RESERVE AGENT AT FED-
ERAL RESERVE BANK OF PHILADELPHIA.

"Supplementing our letter of June 28, 1934, relative to your letter X-7936, we beg leave to advise you that Spiridion Furcich, a private banker of Steelton, Pennsylvania, who requested that we examine his bank pursuant to the provisions of Section 21 of the Banking Act of 1933, was examined by one of our examiners on July 16, 1934.

"The examiner reported that this private banker has no deposits, and according to the banker's statement, had not received deposits for several years. However, he desires to retain the right to receive deposits, which right he may exercise at any time. In view of this situation, we presume that we should continue to conduct semi-annual examinations of the private banker's business so long as he has the right to receive deposits or until he should withdraw his request that we conduct the examination required by Section 21 of the Act."

Copy

OFFICE OF THE ATTORNEY GENERAL

Washington, D. C.

August 2, 1934.

The Federal Reserve Board,

Washington, D. C.

Gentlemen:

I have your letter of July 30, stating your view that a person "authorized" to engage in the "business of receiving deposits subject to check," etc., who may at some future time receive such deposits but presently has none and has received none for several years, is not subject to Section 21 (a) (2) of the Banking Act of 1933, in the sense that he must now submit to examination and file reports as presently engaging in such business. You have submitted the matter to me particularly because the statute, while imposing a duty upon the Board, provides fine and imprisonment for violations.

I am glad to inform you that I concur in the conclusion which you have reached and to assure you that it would not be the purpose of this Department to institute any prosecution under such circumstances. Of course, if the individual hereafter does receive such deposits he must then comply with the statute.

Respectfully,

(Signed) Harold M. Stephens,

Acting Attorney General.