

FEDERAL RESERVE BOARD

WASHINGTON

X-9341

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

October 11, 1935

Subject: Clayton Act -- "con-
tiguous or adjacent
thereto".

Dear Sir:

There is inclosed for your information a copy of the Board's letter of this date regarding the meaning of the phrase "contiguous or adjacent thereto" in paragraph (5) of section 8 of the Clayton Act as amended by the Banking Act of 1935.

Very truly yours,



L. P. Bethea,
Assistant Secretary.

Inclosure.

TO ALL FEDERAL RESERVE AGENTS

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October 11, 1935.

Mr. S. G. Sargent,
Assistant Federal Reserve Agent,
Federal Reserve Bank of San Francisco,
San Francisco, California.

Dear Mr. Sargent:

Consideration has been given to the inquiry contained in your telegram of September 10, 1935, regarding the meaning of the phrase "contiguous or adjacent thereto" contained in paragraph (5) of section 8 of the Clayton Act as amended by section 329 of the Banking Act of 1935. In this connection you refer to the definitions of the phrase "territory contiguous thereto" contained in the Board's resolution of November 7, 1923, and to further definitions of that phrase contained in its letter of January 24, 1924, dealing specially with San Francisco and Los Angeles. In the event that those definitions are not to be used as a basis for determining what is "contiguous or adjacent thereto" within the meaning of the Clayton Act, you request a definition of the phrase in the Clayton Act.

The definition contained in the Board's resolution of November 7, 1923, was made as a part of a statement of administrative policy by the Board regarding the operation of branches by State member banks, and the special definitions contained in its letter of January 24, 1924, amended that definition with respect to two particular situations.

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Furthermore, these definitions referred to "contiguous territory", whereas the Clayton Act refers to cities, towns, and villages which are "contiguous or adjacent". Therefore, these definitions cannot be used as a basis for determining what cities, towns, and villages are "contiguous or adjacent" within the meaning of the Clayton Act.

However, the Board believes that the word "contiguous" in the Clayton Act may be given a similar interpretation to that given it in the Board's resolution and that it should be defined as referring to cities, towns, and villages whose corporate limits touch or coincide at some point.

The Board believes that the word "adjacent" in the Clayton Act was intended to refer to cities, towns, and villages which, although not actually "contiguous" within the above definition of that word, are located in such close proximity and are so readily accessible to each other as to be in practical effect a single city, town, or village, as for example, cities, towns, or villages separated only by a water-course, or a suburb of a city separated from that city by an intervening suburb.

In any case in which there is doubt as to the applicability of this provision of the Act in the light of the definitions given above, it is believed that consideration may properly be given to the question whether there is any substantial conflict of competitive interest between the banks of one city, town, or village and the banks

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of the other, since, as you know, the underlying purpose of the Clayton Act is to prevent monopolies and substantial lessening of competition, and since, in using the phrase "contiguous or adjacent", it seems probable that Congress was describing cities, towns, and villages in which it felt that such conflict of competitive interest would exist.

If in any case you are not able with the assistance of your counsel to determine to your own satisfaction whether or not the exception contained in paragraph (5) of section 8 is applicable, it is suggested that you refer the question to the Board, furnishing it with full information, together with a statement of your views and those of your counsel and such recommendation as you may wish to make.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.