

state commerce in which it was contemplated the fraudulent bills would circulate. *As the power to regulate the instrumentality was coextensive with interstate commerce*, so it must be, if the authority to regulate is not to be denied, that the right to exert such authority for the purpose of guarding against the injury which would result from the making and use of spurious imitations of the instrumentality must be equally extensive." (Italics supplied.)

The reference to the Court's decision in the case of *First National Bank v. Union Trust Co.*, which appears at the end of the first paragraph quoted from the opinion in the *Ferger* case, is significant, because that is the case discussed elsewhere in this opinion, wherein the Supreme Court upheld the right of Congress to grant trust powers to national banks in order to enable them to compete with State banks and trust companies. While that case dealt with a somewhat different exercise of power, the Supreme Court recognized that it afforded a good illustration of the application of the principle to the subject dealt with in the *Ferger* case. Conversely, it would seem that the Court would not hesitate to apply the principle underlying its decision in the *Ferger* case to the subject of banking.

If bills of lading are instrumentalities of interstate commerce, so are checks and the banks upon which they are drawn, and if Congress has the right to prohibit and to punish the fraudulent making of spurious bills of lading in order to protect and sustain the vast volume of interstate commerce operating and moving in reliance upon genuine bills, then Congress must have the right to enact legislation to safeguard the use of checks in order to protect and sustain the vast volume of interstate commerce which is consummated by payments made by means of checks. Since the safe use of checks depends primarily upon the solvency of the banks upon which they are drawn, Congress must have the right to enact legislation to promote the safer and more effective operation of commercial banks.

Nor is Congress prevented from exercising this power by the fact that part of the business of commercial banks is purely local in character; but the power to regulate interstate commerce "must include the authority to deal with obstructions to interstate commerce . . . and with a host of other acts which, because of their relation to and influence upon interstate commerce, come within the power of Congress to regulate, although they are not interstate commerce in and of themselves."

If Congress in its wisdom should find that our heterogeneous banking structure, which has given rise to more than 10,000 bank failures in the last 12 years, constitutes a burden upon or an obstruction to interstate commerce, therefore, there can be no doubt that Congress has the constitutional power to correct the situation by bringing all commercial banking business into a single system subject to effective regulation and supervision by the Federal Government, to the end that the currency of checks upon which practically every transaction in interstate commerce depends for its consummation may be made more secure.

IV. METHODS WHICH COULD BE ADOPTED

Having the power to enact such legislation, Congress could exercise the power in any manner which it deems appropriate and adequate for this purpose. It is not necessary that the legislation assume the form of a revenue act or an act to regulate interstate commerce, though either of these means would be appropriate. In the light of the decisions of the Supreme Court of the United States in *Stafford v. Wallace* and *Board of Trade of Chicago v. Olsen*, however, it would be desirable for such legislation to contain findings of fact and a recital of the national objects to be attained, as did the Grain Futures Act.

Among the constitutional means which Congress could adopt in order to accomplish these objects or to aid in their accomplishment are the following:

- (1) It could forbid the receipt of deposits subject to withdrawal by check by any individual, partnership, or corporation other than a bank organized under the laws of the United States and provide suitable penalties for violations of this prohibition.
- (2) It could impose a prohibitive tax on all checks and similar documents drawn on, or payable at, banks not organized under the laws of the United States.
- (3) It could forbid any officer of the United States or any Federal Reserve bank, national bank, Federal land bank, joint-stock land bank, Federal intermediate credit bank, or Federal home-loan bank to receive in payment, on deposit, for the purposes of exchange or collection, or for any other purpose, any check drawn upon any bank not organized under the laws of the United States.
- (4) It could forbid any bank organized under the laws of the United States to make loans or extend credit to, or deposit any of its funds in, or permit the use of any of its facilities by, any commercial bank not organized under such laws.
- (5) It could forbid the deposit of public funds of the United States in any bank not organized under the laws of the United States.
- (6) It could exempt all national banks from taxation, State or Federal, except taxes on real estate.

In order to be completely effective, the legislation could combine several of the measures suggested above. Thus, a comprehensive bill on this subject might include the following:

- (1) A finding of facts by the Congress (on the basis of evidence already obtained pursuant to S.Res. 71 and other evidence which may be produced) to the effect that, in order (a) to provide for the safe and more effective operation of the national banking system and the Federal Reserve System, (b) to preserve for the

people the full benefits of the currency provided for by the Congress, and (c) to relieve interstate commerce of the burdens and obstructions resulting from the existing situation, it is necessary to restrict the business of receiving deposits subject to withdrawal by check to national banks and thereby to subject all commercial banking business to national regulation and supervision;

(2) A prohibition against the receipt of deposits subject to withdrawal by check except by banks organized under the laws of the United States;

(3) A prohibition against any officer of the United States or any bank organized under the laws of the United States receiving in payment, on deposit, for exchange or collection, or for any other purpose, any check drawn upon any bank not organized under such laws;

(4) A prohibition against any bank organized under the laws of the United States making loans or extending credits to depositing any of its funds in, or permitting the use of any of its facilities by, any commercial banking institution not organized under such laws;

(5) A provision imposing a prohibitive tax on all checks or substitutes therefor drawn upon or payable at any bank not organized under the laws of the United States; and

(6) A provision prescribing suitable penalties for violations of the above provisions.

If such legislation is enacted, its effective date necessarily would have to be postponed for a sufficient length of time to avoid too sudden and revolutionary a change in our existing financial structure and to allow time for existing State banks to adjust themselves to the situation, by converting into national banks or discontinuing the transaction of commercial banking business.

The time intervening between the enactment of such legislation and the date when it becomes effective could be devoted to the preparation and enactment of additional legislation for the purpose of providing further for the more effective operation, regulation, and supervision of the national banking system and the Federal Reserve System, by repealing undesirable amendments to the National Bank Act and Federal Reserve Act which grew out of the competition in laxity, equipping the supervisory authorities with adequate powers to enable them to perform their functions more effectively, and adopting such other measures as might be deemed appropriate.

Respectfully,

WALTER WYATT,
General Counsel.

WASHINGTON, D.C., December 5, 1932.

REPORT OF THE JUDICIARY COMMITTEE—THE HARRIMAN NATIONAL BANK OF NEW YORK

Mr. STEPHENS, from the Committee on the Judiciary, to which was referred the resolution (S.Res. 55) to investigate the delay in prosecuting alleged law violations by the Harriman National Bank, New York City, reported it with an amendment, and it was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

INVESTIGATION OF BANKING BUSINESS AND SECURITY EXCHANGE

Mr. BYRNES. On behalf of the Committee to Audit and Control the Contingent Expenses of the Senate, I report back favorably with an additional amendment the resolution (S.Res. 56) to investigate the matter of banking operations and practices, the issuance and sale of securities, and the trading therein.

The VICE PRESIDENT. The resolution will be placed on the calendar.

Mr. FLETCHER. Mr. President, the Committee to Audit and Control the Contingent Expenses of the Senate has reported with an additional amendment a resolution, which the Banking and Currency Committee reported on yesterday. I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Without objection, the resolution will be read.

The Chief Clerk read Senate Resolution 56.

The amendments were, on page 1, line 2, after the word "authorized", to strike out "subcommittee" and insert "subcommittee"; on page 2, line 20, after the word "telephone", to strike out "and" and insert "the radio, and"; on page 3, after the word "such", to strike out "expenditures" and insert "expenditures"; and in line 12, after the words "per hundred words", to insert "The expenses of the investigation shall be paid out of the sum heretofore made available for the investigation authorized under S.Res. 84, S.Res. 239, and S.Res. 371, Seventy-second Congress."; so as to make the resolution read:

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, in addition to the authority granted under S.Res. 84, Seventy-second Congress, agreed to March 4, 1932, and continued in force by S.Res. 239, Seventy-second Congress, agreed to June 21, 1932, and further continued by S.Res.

371, Seventy-second Congress, agreed to February 28, 1933, shall have authority and hereby is directed—

(1) to make a thorough and complete investigation of the operation by any person, firm, copartnership, company, association, corporation, or other entity, of the business of banking, financing, and extending credit; and of the business of issuing, offering, or selling securities;

(2) to make a thorough and complete investigation of the business conduct and practices of security exchanges and of the members thereof;

(3) to make a thorough and complete investigation of the practices with respect to the buying and selling and the borrowing and lending of securities which are traded in upon the various security exchanges, or on the over-the-counter market, or on any other market; and of the values of such securities; and

(4) to make a thorough and complete investigation of the effect of all such business operations and practices upon interstate and foreign commerce, upon the industrial and commercial credit structure of the United States, upon the operation of the national banking system and the Federal Reserve System, and upon the market for securities of the United States Government, and the desirability of the exercise of the taxing power of the United States with respect to any such business and any such securities, and the desirability of limiting or prohibiting the use of the mails, the telegraph, the telephone, the radio, and any other facilities of interstate commerce or communication with respect to any such operations and practices deemed fraudulent or contrary to the public interest.

For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, either in the District of Columbia or elsewhere, during the first session of the Seventy-third Congress, or any recess thereof, and until the beginning of the second session thereof, to employ such experts and clerical, stenographic, and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, and documents, to administer such oaths, and to take such testimony and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the investigation shall be paid out of the sum heretofore made available for the investigation authorized under S.Res. 84, S.Res. 239, and S.Res. 371, Seventy-second Congress.

The amendments were agreed to.

The resolution as amended was agreed to.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SHEPPARD:

A bill (S. 1128) granting a pension to Mary L. Robinson; to the Committee on Pensions.

By Mr. STEPHENS:

A bill (S. 1129) to amend sections 361, 392, 406, 407, 408, 409, 410, 411, and 412, of title 46 of the United States Code relating to the construction and inspection of boilers, unfired pressure vessels, and the appurtenances thereof; to the Committee on Commerce.

By Mr. WALSH:

A bill (S. 1130) to incorporate the National Society of Women Descendants of the Ancient and Honorable Artillery Co.; to the Committee on the Judiciary.

By Mr. ASHURST (by request):

A bill (S. 1131) to amend the probation law; to the Committee on the Judiciary.

By Mr. ASHURST:

A bill (S. 1132) for the relief of Stanley A. Jerman, receiver for A. J. Peters Co., Inc.; to the Committee on Claims.

By Mr. DILL:

A bill (S. 1133) to provide a preliminary examination of the Cowlitz River and its tributaries, in the State of Washington, with a view to the control of their floods; to the Committee on Commerce.

By Mr. FRAZIER:

A bill (S. 1134) restoring to tribal status and allotments certain lands on Standing Rock Indian Reservation in the States of South Dakota and North Dakota;

A bill (S. 1135) to amend section 1 of the act entitled "An act to provide for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians, for the leasing of allotments, and for other purposes", approved June 25, 1910, as amended; and

A bill (S. 1136) authorizing the Secretary of the Interior to erect a monument as a memorial to the return from Canada and surrender to the Government of the United

States of the Sioux Indian chiefs, Sitting Bull, Gall, Rain in the Face, and Crow King, with their several bands of followers, in 1881; to the Committee on Indian Affairs.

By Mr. ERICKSON:

A bill (S. 1137) for the relief of Ruth J. Barnes; to the Committee on Military Affairs.

By Mr. WHEELER:

A bill (S. 1138) authorizing transfer of an unused portion of the United States Range Livestock Experiment Station, Mont., to the State of Montana, for use as a fish-cultural station, game reserve, and public recreation ground, and for other purposes; to the Committee on Agriculture and Forestry.

A bill (S. 1139) authorizing the Court of Claims to investigate and determine the facts in connection with the claim of the First National Bank of Billings, Mont.; to the Committee on Claims.

A bill (S. 1140) granting an increase of pension to Louise Hatch; and

A bill (S. 1141) granting an increase of pension to Dora White; to the Committee on Pensions.

(Mr. SHEPPARD introduced Senate bill 1142, which was referred to the Committee on Agriculture and Forestry and appears under a separate heading.)

By Mr. BONE:

A bill (S. 1143) granting a pension to Leonard Claud Huntington; to the Committee on Pensions.

By Mr. SCHALL:

A bill (S. 1144) granting a pension to Della M. C. Rudolph; to the Committee on Pensions.

RELIEF OF UNEMPLOYMENT

Mr. SHEPPARD. Mr. President, I desire to introduce a bill relating to unemployment. I ask that the bill be set out in the Record and, following the bill, a memorandum explaining it which was prepared at my request by Mr. George T. Pickett, president and general manager Llano Cooperative Colony, Newllano, La., who suggested to me the introduction of the bill.

The VICE PRESIDENT. Without objection, it is so ordered.

The bill (S. 1142) for the purpose of providing industrial and agricultural communities for the absorption of unemployed citizens of the United States, and for issuance of self-liquidating bonds for the establishment thereof, was read twice by its title, referred to the Committee on Agriculture and Forestry and ordered to be printed in the Record, as follows:

Be it enacted, etc., That there be, and there hereby is, created a national corporation which shall be known as the United Communities.

Sec. 2. That the purpose of the said corporation shall be to establish a series of communities throughout the United States, at such locations as may be deemed proper and convenient, and to secure land, housing, machinery, and other equipment as the same may be required for the accommodation, employment, and maintenance of families and individuals, citizens of the United States, who shall be engaged in productive employment under the direction of the said corporation.

Sec. 3. That it shall be the policy of the said corporation to direct the productive and other activities of the said communities to the end that the products thereof shall be destined for, and only for, consumption by the residents of said communities, so far as possible, save and excepting when said products may be exchanged at a fair market value for commodities of which there is an insufficient production in said communities to meet the actual need within said communities, or which commodities are found to constitute a surplus over and above the current consuming and purchasing capacity of the general markets at any given time; and/or when said products constitute a surplus over and above the needs of the residents and of the operation of the activities within said communities.

Sec. 4. That the machinery, tools, and equipment of industry and of agricultural production within such communities shall be of such available type and pattern as shall be approved by the Bureau of Standards of the Federal Government at Washington as being calculated to produce the largest quantity of approved product with the smallest expenditure of man-hours of labor.

Sec. 5. That the working time of the residents of said communities shall be adjusted to the end that it shall not exceed the total man-hours per week required to produce such and so much in quantity as shall be sufficient to meet the necessities and convenience of said residents, whether in direct distribution of said products or by exchange for and distribution of the products of