

(COPY)

May 9, 1935

To Mr. Wyatt  
From Mr. Chase

Subject: Proposed Amendments to the  
Clayton Act.

I believe that it would be unjust to retain the proviso in paragraph (6) of the proposed substitute for section 328 of the Banking Act of 1935.

Paragraph (6) provides in effect that section 8 of the Clayton Act as amended shall not apply in the case of a person who is lawfully serving two or more banks on the date of the enactment of the Banking Act of 1935; but the proviso makes this exception inapplicable where such person is serving under a permit having a fixed expiration date.

As you know, prior to January 9, 1935, the Board acted on 2,500 or more applications, and the permits which were issued, with very few exceptions, were unlimited as to time. On January 9, 1935, the Board changed its policy, and all permits which were issued thereafter contained a fixed expiration date. There were only a few hundred of these cases. Manifestly, the Board's action in issuing permits with a fixed expiration date was not based upon any difference in the facts involved in these last cases, but resulted merely from the fact that the Board had not acted upon them before January 9, 1935 for one reason or another. It therefore seems unjust to allow applicants whose permits were granted before January 9, 1935 to continue to serve, and to require the others to sever their connections.

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In short, it appears that these few hundred applicants received temporary permits merely because the Board and its staff had not had time to consider their applications before January 9, 1935, or because consideration was delayed on account of a pending application by the same person under section 32 of the Banking Act of 1933, or some such other reason, or because the relationships involved had been recently entered into. Of course, with respect to the latter, I suppose that no permits were granted in cases which would not be excepted by the proposed amendment to section 8.

Respectfully,

(Signed) G. Howland Chase

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Assistant Counsel.