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February 26, 1947.

CONFIDENTIAL

Honorable Tom C. Clark,
Attorney General,
Washington, D. C.

Dear Mr. Attorney General:

It has been well over a year since the luncheon meetings in your office of representatives of the Treasury Department, Federal Deposit Insurance Corporation, the Board of Governors and your Antitrust Division respecting Transamerica Corporation. Since that time various proposals for legislation to tighten existing controls over bank holding companies generally have been considered and discussed by the Board and on April 30, 1946, a bill dealing with this subject was introduced by then Chairman Spence of the House Banking and Currency Committee. However, the pressure of war and reconversion matters prevented consideration of this legislation by the 79th Congress. It is expected that a similar bill will be introduced in the present Congress and we hope that it will receive early and favorable consideration.

Meanwhile, however, the problem of how to deal effectively with the Transamerica situation has continued to trouble and concern the Board. Legislation alone will not solve the problem, unless it be of the "death sentence" variety; and the Board is convinced that the passage of such a bill is neither desirable nor possible. The most that may be expected of legislation is to curb the future expansion of a bank holding company which, like Transamerica, has followed a consistent policy of monopolistic growth.

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In your letter to me of October 31, 1945, you reviewed the factual situation respecting Transamerica as disclosed by the investigation of your Antitrust Division. Your letter points out that at that time Transamerica

"controls 35 banks in the States of California, Nevada, Arizona, Oregon and Washington, the largest of which is the Bank of America; that many of these 35 banks have numerous branches; that these banks control approximately 40% of the banking offices and

approximately 36% of the commercial banking deposits in the five-state area; that the Transamerica-controlled banks control approximately 80% of deposits in the State of Nevada and 61% of the commercial banking offices; in California, 42% of the deposits and 49% of the commercial banking offices; in Oregon, 39% of the deposits and 13% of the commercial banking offices; and in Washington, 5% of the deposits and 4% of the commercial banking offices. In many counties within this five-state area the percentage control of deposits and commercial banking offices is much greater. In California, for example, there are thirteen counties in which the Transamerica Corporation controls 100% of the commercial banking facilities. This expansion program has been effected over a period of approximately twenty years. In many instances the holding company financed the acquisitions by borrowing funds from its banking subsidiaries, using the assets of the purchased bank as security for the loan."

Since your letter was written, Transamerica has further increased its dominating position in the five-state area mentioned above by the acquisition of other banks and by the growth of those already owned by it. In addition, its portfolio of nonbanking interests has increased.

Both in your letter and in our contemporary meetings you expressed the opinion that, while the statistical data referred to above might be sufficient to justify the Department in commencing some kind of antitrust proceeding against Transamerica and its affiliated organizations, nevertheless the lack of proof of any sustained policy of abuse of power, either in attaining its dominant position or in perpetuating it, made the outcome of such a suit decidedly dubious.

Counsel for the Board have recently called to the Board's attention the decision of the Supreme Court in American Tobacco Company v. United States, decided on June 10, 1946. The effect of that decision seems to eliminate the need in certain cases for the kind or extent of proof which had previously been thought necessary in antitrust proceedings. I am wondering, therefore, if your Department has considered whether the decision in the Tobacco case might not lessen to a considerable extent the doubt which heretofore it has entertained as to the ultimate success of an antitrust proceeding against Transamerica.

Mr. Attorney General

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I would appreciate receiving your present opinion in the matter, for the Board is again considering the Transamerica situation in the light of the Board's over-all responsibility in the banking field generally and in particular its responsibility under section 7 of the Clayton Act.

Sincerely yours,

M. S. Eccles,
Chairman.