

Before the
BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

In the Matter of:

TRANSAMERICA CORPORATION

Place of Hearing: Washington, D. C.

Date of Hearing: February 11, 1949

Pages 839 - 900

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Marriner S. Eccles (Resumed)		840		

EXHIBITS

NUMBER:	FOR IDENTIFICATION	EVIDENCE
RESPONDENT'S No. 6		841
RESPONDENT'S No. 7-A, B, C, D		873

1 UNITED STATES OF AMERICA

2 BEFORE

3 BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

4 - - - - -
5 IN THE MATTER OF :
6 TRANSAMERICA CORPORATION :
7 - - - - -8 Room 1202,
9 Federal Reserve Board Building,
10 Washington 25, D. C.,
Friday, February 11, 1949.11 The above-entitled matter came on for further hear-
12 ing pursuant to adjournment, at 10:30 o'clock a. m.

13 BEFORE:

14 RUDOLPH M. EVANS, Member, Board of Governors, of
15 the Federal Reserve System,
Hearing Officer.

16 APPEARANCES:

17 J. LEONARD TOWNSEND, Solicitor, Board of
18 Governors of the Federal Reserve
System, Washington, D. C., and
19 G. HOWLAND CHASE, Assistant Solicitor, Board of
Governors of the Federal Reserve
20 System, Washington, D. C.,
appearing on behalf of the Board.21 SAMUEL B. STEWART, JR., AND
22 HUGO A. STEINMEYER, 300 Montgomery Street, San
Francisco, California, appearing
23 on behalf of Transamerica Corpor-
ation.
24
25

P R O C E E D I N G S

THE HEARING OFFICER: Will the hearing come to order, please?

MARRINER S. ECCLES

the witness on the stand at the time of the adjournment, resumed the witness stand and testified further as follows:

CROSS EXAMINATION (Resumed)

BY MR. STEWART:

Q Mr. Eccles, at pages 533 to 545 of the record, you referred to what you called an understanding or gentleman's agreement with Mr. L. M. Giannini, I gathered, in early 1940, that any further expansion would not be undertaken without approval by the regulatory agencies, and you said that that gentleman's agreement or understanding was reached in connection with the agreement partially negotiated by you between the Comptroller's office and the Bank of America in the spring of 1940. I should like to ask you some specific questions about that so-called understanding or gentleman's agreement?

A Mr. Cushing was also. I said Mr. Giannini --

Q You said Mr. Cushing and Mr. Giannini were participants in that conference.

A That is right. Mr. Cushing, with Mr. Giannini's attorney.

Q Yes. Now, isn't it a fact, Governor, that after approximately six weeks of negotiations at that time, the agree-

1 mant negotiated with the Comptroller's office was reduced
2 to writing?

3 A That is right.

4 Q I show you a paper and ask you if that is a copy of
5 the agreement which was reduced to writing at that time?

6 A As I recall the conference, I would say that it is.

7 MR. STEWART: I will ask the reporter to mark/as the ^{this paper}
8 Respondent's Exhibit next for identification.

9 (The document referred to was
10 marked Respondent's Exhibit No.
6 for identification.)

11 BY MR. STEWART:

12 Q Isn't it a fact that in this paper which has been
13 marked Respondent's Exhibit 6 for identification there is not
14 one word about the understanding or gentleman's agreement that
15 you have referred to?

16 A That is correct. It was discussed. I thought
17 that there should be some way of putting it in that paper, but
18 the attorneys who were discussing the thing didn't think
19 that that was advisable and that it would be inappropriate
20 to do so.

21 MR. STEWART: I move to strike out all of the
22 answer after the words "It is correct," as unresponsive to
23 the question.

24 MR. TOWNSEND: The witness is certainly entitled
25 to explain his answer, may it please the Hearing Officer.

1 THE HEARING OFFICER: I will let the answer stand.

2 BY MR. STEWART:

3 Q Isn't it further the fact that the agreement at that
4 time was exclusively with the Bank of America National Trust
5 and Savings Association?

6 A That is correct.

7 Q And neither Transamerica Corporation nor any other
8 company was a party to that agreement?

9 A That is correct. We, of course, discussed the ques-
10 tion of Transamerica, and as was indicated, Transamerica
11 was furnishing the capital to carry out the capital require-
12 ments for the bank.

13 Q But there was no officer of Transamerica Corpora-
14 tion present at any of the conferences, was there?

15 A We had understood that Mr. Mario Giannini was in
16 constant touch with Mr. A. P. As a matter of fact, from
17 time to time he would report that he would have to take
18 this matter up and discuss it with his associates and with
19 A. P.

20 Q He did make it clear, though, didn't he, that he
21 was appearing for and representing only Bank of America,
22 of which he was president?

23 A The Comptroller was, of course, the one that had
24 called this conference for the purpose of considering the
25 problems and the question of Bank of America which was the

1 great, large portion of the Transamerica organization.

2 MR. STEWART: I move to strike out the last answer,
3 sir, as unresponsive and as stating a conclusion of the wit-
4 ness.

5 MR. TOWNSEND: I think, Mr. Hearing Officer, that
6 that statement is reasonably helpful in interpreting the
7 situation that Mr. Stewart is attempting to develop.

8 THE HEARING OFFICER: I will let the answer stand.

9 BY MR. STEWART:

10 Q Let me get it clear, Mr. Eccles. You told me
11 in answer to a question a few minutes ago that the agreement
12 that was made at that time was exclusively with Bank of
13 America. Now, do you wish to change that answer at all?

14 A No, sir, I don't wish to change it, the written
15 agreement.

16 Q And you also told me, as I understood it, that
17 there was nobody present at that time on behalf of Trans-
18 america Corporation; is that correct?

19 A The Transamerica relationship to the whole situa-
20 tion was constantly under discussion.

21 Q But only between representatives of the Government
22 and representatives of Bank of America; is that correct?

23 A That is right.

24 Q All right.

25 Don't you know it also to be the fact that every

1 additional branch of Bank of America, which has been opened
2 since the date of those conferences, has been established with
3 the express approval of the Comptroller of the Currency?

4 A I couldn't say as to that.

5 Q Isn't that inevitably so, Governor?

6 MR. TOWNSEND: If it is so, why ask the Governor
7 about it?

8 MR. STEWART: Because there have been some insinua-
9 tions about it which I want cleared up on the record.

10 THE WITNESS: I don't recall -- you are referring
11 to Bank of America?

12 BY MR. STEWART:

13 Q That is what I said.

14 A Well, of course, the Bank of America being a national
15 bank, if it opened any branches, they would have to be approved
16 by the Comptroller of the Currency and the Comptroller of
17 the Currency only.

18 Q Right. That agreement, which you have identified
19 as being the agreement negotiated at that time, did not pur-
20 port to impose any requirement on Transamerica's acquisitions
21 of banks, did it?

22 A No, it did not.

23 Q And the Comptroller of the Currency did not have
24 or even claim any control over Transamerica's acquisition
25 of additional banks, did he?

1 A He did not.

2 Q Do you then base your reference to an understanding
3 or gentleman's agreement merely upon your own impressions
4 of what somebody said in the course of those negotiations?

5 A I base it upon a good deal of discussion had between
6 the whole group that met almost continuously for six weeks
7 considering this matter, a basic discussion upon that, that
8 the primary purpose for the Board intervening in a matter
9 that involved the Bank of America was in order to try to come
10 to some understanding with reference to the whole Transamerica
11 operation.

12 Had that not been in the background, had it not been the
13 primary consideration, I don't think that the Board, upon the
14 request of Giannina, would have had the same interest in
15 intervening merely to get a temporary arrangement made with
16 reference to the Bank of America that had brought about -- a
17 temporary arrangement made with the Bank of America, the
18 necessity of which was because of the critical attitude of
19 the Secretary of the Treasury and the Federal Deposit
20 Insurance Corporation people. As this record has shown,
21 the desire on the part of the other supervisory authorities
22 to restrain the Bank of America through various means, publish-
23 ing of the report of the Bank of America, the wire to dis-
24 continue the payment of dividends, the indication that they
25 were going to file certain complaints and request the Board

1 to bring about a Section 30 case, all of that was involved in
2 this situation and the Board was willing to intervene with the
3 idea that there be a settlement of these various differences.

4 Q That is the differences relating to Bank of America?

5 A It wasn't only that. It wasn't only that, but the
6 differences that involved the whole Transamerica operations
7 and its relationship with Bank of America. I was going to
8 say in connection with certain practices, as I recall, between
9 the Transamerica and the Bank and the subsidiaries of Trans-
10 america and the Bank.

11 Q Have you finished?

12 A Yes.

13 Q Governor, can you recall specifically what it was
14 that anybody said in the course of those negotiations which
15 gave you the impression you testified to getting and who it
16 was that said it? I would like to get that as specifically
17 as I can.

18 A I can't give it to you any more specifically, be-
19 cause the discussion was so general and it was spread over
20 such a period of time and there were so many people repre-
21 senting the various agencies of the Bank involved in this con-
22 ference that I don't remember any specific statement by any
23 one person.

24 Q The net of it is, then, that there was nothing put
25 into a written agreement about a restriction on Transamerica

1 and there is nothing that you can specifically attribute orally
2 to any specific person. It was merely the impression that
3 you got from the general course of the negotiations?

4 A That is right.

5 Q Isn't it a fact that when you first telephoned
6 to Mr. L. M. Giannini, respecting the Temple City National
7 Bank acquisition, as you testified on direct, and made
8 reference to this so-called gentleman's agreement or under-
9 standing, he categorically denied that he had had any such
10 understanding or agreement with you or with anybody?

11 A I wouldn't say he categorically denied it.

12 Q How would you put it, sir?

13 A What Mr. Giannini -- he was not antagonistic at all
14 and he said that he was sorry that the Board felt that way
15 and that he hadn't understood that that is what was expected.

16 Q In other words, his understanding was different
17 from yours?

18 A Yes, yes, that was quite apparent.

19 Q There was no misunderstanding about it?

20 A It was quite apparent. If it wasn't any different
21 at the time, he had forgotten it.

22 MR. STEWART: Will you read the end of the answer?

23 (Answer read by the reporter.)

24 THE WITNESS: If, at the time of the discussion,
25 it wasn't different, if he had the same view that I had

1 at the time, then, certainly, when I talked to him he
2 didn't have that view. I don't know whether he had for-
3 gotten the understanding or whether he ever had the under-
4 standing. I can't speak for Mr. Mario Giannini.

5 BY MR. STEWART:

6 Q Let us tie it down to the one telephone conversa-
7 tion. Is it perfectly clear at the time of the Temple City
8 National Bank acquisition, when you telephoned Mr. M. L.
9 Giannini and made reference to this so-called gentleman's
10 agreement or understanding, he made it clear to you that at
11 least as of that time he didn't have the same understanding
12 that you had?

13 A That is correct.

14 Q Now, you have testified on your direct examination
15 about various conversations with the staff of the Board and
16 with representatives of the other regulatory agencies respect-
17 ing your desire to have Transamerica Corporation submit any
18 proposed new acquisitions of banks to the Board for approval
19 before consummating the purchase. You, I take it, have
20 studied the legal rights and duties of the Board in that
21 regard?

22 A I could correct that statement.

23 Q All right, sir.

24 A That it was my desire -- it would appear from the
25 way you put the question that I was the only one on the Board

1 that had any interest in or any desire to control or curb the
2 Transamerica expansion. That is not true.

3 Q You were taking the leadership in the negotiations,
4 however, were you not?

5 A I was the Chairman of the Board and as the Chairman
6 of the Board I was possibly more involved in the negotiations
7 than others. However, Mr. McKee and Mr. Ransom were also in
8 on different conferences at different times, either with me
9 or alone. I was not always in all of the conferences, either
10 with the Transamerica people or the supervisory agencies, but
11 the whole question is a question that was discussed with the
12 Board and the staff was constantly considering the question,
13 the problems, with the staffs of the other supervisory agencies.

14 Q All right, sir. Now, with that clarification of the
15 background, my question was, you have studied the legal rights
16 and duties of the Board in that regard, haven't you?

17 A I wouldn't know. I wouldn't say that I had studied
18 the legal rights and duties.

19 Q You mean that before taking that position you
20 didn't familiarize yourself with what your legal rights and
21 duties were?

22 A No, we always -- the Board always acted upon the
23 advice of their staff people and their lawyers.

24 Q That is what I mean. You did take advice on that
25 subject, didn't you?

1 A But I didn't study the legal rights of the Board.

2 Q All right. You took advice on it and familiarized
3 yourself with it?

4 A We advised or we acted upon the advice of counsel
5 and upon the information provided by the staff.

6 Q And on the basis of that advice which you received
7 at the time, you know, don't you, Mr. Eccles, that under the
8 present law and the law as it existed throughout the period
9 under consideration in this case, your Board had no legal
10 authority to require a corporation to obtain the Board's
11 approval of any other regulatory agency before it bought the
12 assets or stock of a bank.

13 A We knew that we had no legal authority to stop and
14 curb a bank holding company from buying either the stock of
15 a bank or the assets of a bank.

16 Q And I say, you also knew at the same time that you
17 had no legal authority to require the corporation to
18 obtain the Board's approval in advance of a purchase of
19 such assets or stock?

20 A We knew that and we --

21 Q You repeatedly sought that authority without
22 success from the Congress, didn't you?

23 A I think the first time that the Board sought the
24 authority by legislation was in 1946.

25 Q But you have made several appearances at one time or

1 another requesting such authority, haven't you?

2 A Well, prior to this time the Comptroller, the Sec-
3 retary of the Treasury, Chairman of the Federal Deposit In-
4 surance Corporation had had two bills introduced in Congress
5 that were, I think both of them would have brought a
6 death sentence -- had within them a death sentence for bank
7 holding companies.

8 The Board always felt that the Banking Act of 1933,
9 which, for the first time, recognized the need of regulating
10 bank holding companies, gave to the Board the supervisory
11 authority over bank holding companies and gave them the power
12 to issue or to deny the voting permits, that is, a permit
13 by the holding company to vote stock of the bank, which they
14 acquired. It was expected, anticipated by the Board,
15 and I am sure by Senator Glass, who sponsored that
16 legislation, the Congress had passed it, that that would be
17 an adequate authority to enable the Board to control the ex-
18 pansion of bank holding companies through the acquisition
19 of stock in other banks. As I have indicated, I think that
20 the Transamerica has been the only bank holding company that
21 has acquired stock in other banks without advising with the
22 Board and to ascertain whether or not it was agreeable
23 or whether or not they would issue or give a voting permit.

24 Q If I may get back to the point, the point in so far
25 as it related to Transamerica and not the other companies is

1 concerned, is where a company chose, as did Transamerica,
2 merely to make an investment in a bank, either by purchasing
3 its stock or in some other way, and without seeking a voting
4 permit, you knew and were advised by your attorneys at the
5 time that the Board had no authority to require submission
6 of that proposition to the Board for advance approval,
7 didn't you?

8 A I knew at what time?

9 Q At the time of these negotiations in 1940, respecting
10 which you testified.

11 A Oh, yes, we had found out by that time that --
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1 Q That the law didn't cover that situation?

2 A That the law had a loophole in it that Transamerica
3 had found and used and no other bank holding company had used
4 it.

5 Q And when you found out, as you have testified you
6 did, from your lawyers that the Board had no authority in that
7 situation, you did thereafter seek that authority from the
8 Congress, didn't you?

9 A We did in 1940--I think it was 1946 or 1947.

10 Q Also 1945.

11 A I don't think the bill was in 1945. I think it was
12 1946. During the war period--

13 Q Wasn't it covered in each of those three bills that
14 you identified yesterday?

15 A That is correct.

16 Q And you sought that authority, then, on at least
17 those three occasions and Congress did not pass any of those
18 bills, did it?

19 A That is correct.

20 Q All right, sir. Now, I should like to clarify
21 certain phases of your testimony and of the Board's Exhibit
22 39, which was the memorandum concerning the conference of
23 February 18, 1943, which you identified. Is that clear?

24 I hand you Board's Exhibit 39, which you identified
25 as the memorandum which was prepared subsequent to the conference

between Mr. A. P. Giannini and certain members of the Board held on February 18, 1943.

(Discussion off the record.)

BY MR. STEWART:

Q Now, I direct your attention to the last sentence of the second paragraph of that memorandum, beginning with the word "however." Do you see that? I think it is on Page 2.

A The last sentence of which, you say?

Q Of the second paragraph of the memorandum, which reads--

A "In this connection"--

Q No, which reads, "However, when his attention was directed to the facts of the Board's participation"--

A Oh, yes.

Q --"in the negotiations leading up to the 1939-1940 agreement and to the promises of the Giannini interests in that connection, he had little to say."

I further direct your attention to your testimony at Page 575 of the record in this proceeding to the effect that it was pointed out to Mr. Giannini at the February, 1943 meeting that you had understood in connection with your 1940 negotiations with the Bank of America officers and representatives, "that the expansion program that had been previously undertaken would not be continued and that no further expansion

1 would be undertaken through the acquisition of the stock of
2 other banks without first taking up the matter with the Board."

3 Will you please point out to me, if you can, in
4 Board's Exhibit 39, where there is any reference to any such
5 occurrence?

6 A I don't find that in this memorandum, the specific
7 language that I used in the direct examination.

8 Q Do you find anything that is substantially that?

9 A The fact that--yes, I find this and as I recall it,
10 it was the way the conference ended, that--

11 Q What page, Mr. Eccles?

12 A I am not thinking of any particular quotation, and
13 I think you might agree with this--

14 Q I just want to locate it on my copy.

15 A Well, he had referred to situations that they felt
16 some obligation to go through and that he would favor an agree-
17 ment that there would be no further expansion if such an agree-
18 ment was entered into with all holding companies. However, he
19 said that he would have to take it up, and as this language
20 says here, "with his boys."

21 That was the only commitment with reference to the
22 question of further expansion.

23 Q Yes. Well now, I am very glad to have that testi-
24 mony and that will save some other questions I was going to
25 ask you later, but before we leave the question I did ask you,

1 I would just like to get it clear whether in approving that
2 memorandum, Board's Exhibit 39, as stating what you called
3 on direct "the gist of what was generally discussed," did
4 you mean to say that it is your best recollection that at
5 that meeting some promises of somebody were brought to
6 Mr. A. P. Giannini's attention, referring again to the sen-
7 tence that I quoted to you a moment ago?

8 MR. TOWNSEND: That sentence, Mr. Eccles, is on
9 Page 2 of the memorandum, the last sentence in the paragraph,
10 appearing and beginning at the top.

11 THE WITNESS: "However, when his attention was
12 directed to the facts--"

13 BY MR. STEWART:

14 Q That is the sentence.

15 A What was your question with reference to that?

16 Q My question was whether you meant, in approving
17 that memorandum as a correct statement of the gist of what
18 was discussed, you meant to imply that there were some
19 past promises of somebody that were brought to Mr. A. P.
20 Giannini's attention at the time?

21 A That is correct.

22 Q Did you mean to imply that?

23 A That is right.

24 Q Will you state specifically whose promises and what
25 promises you mean to testify were brought to Mr. Giannini's

1 attention at that time?

2 A Well, the same promises that have already been
3 testified to with reference to Mr. Mario Giannini and Mr.
4 Cushing.

5 ,... Q You mean this impression that we have discussed
6 earlier this morning that you got out of the 1940 meeting?

7 A And that Mr. McKee got and that the entire Board
8 got as a result of our reporting to the Board.

9 Q And that when you discussed it with Mr. L. M.
10 Giannini--

11 MR. TOWNSEND: Did you finish your answer?

12 THE WITNESS: And I was going to say the impression
13 of the other supervisory agencies, Mr. Crowley and Mr. Delano
14 got.

15 MR. STEWART: I move to strike out all of the
16 rest of the answer of the witness after the word "yes" as not
17 responsive.

18 MR. TOWNSEND: I submit it is quite explanatory of
19 the entire situation that Mr. Stewart wants to inquire about.
20 It seems to me that he can't have a "yes" or "no" and then
21 strike out what he doesn't want to hear.

22 MR. STEWART: And it is also, sir, a statement of
23 the witness' conclusions and guesses as to the state of mind
24 of other people not on the witness stand. If we are going to
25 have their conclusions, they ought to testify.

1 MR. TOWNSEND: There has already been testified
2 into this record, may it please the Hearing Officer, that
3 very shortly before these conferences, or very shortly after
4 these conferences with the Treasury in 1940, that Messrs.
5 Delano and Crowley initiated a Board letter to the Giannini's,
6 in which a policy of agreement was discussed.

7 I may certainly argue, it seems to me, that that
8 policy could have definitely been related back to the very
9 conferences and discussions and understandings that this wit-
10 ness has testified concerning.

11 MR. STEWART: Maybe they can be, but they haven't
12 been yet.

13 THE HEARING OFFICER: Will you state, Governor Eccles,
14 whether your answer was explanatory of your statement or not?

15 MR. TOWNSEND: Do you understand the question?

16 MR. STEWART: May I suggest we read the question/answer and
17 and I think it will be perfectly clear

18 THE WITNESS: Read the question.

19 (The question and answer was read by the Reporter.)

20 MR. STEWART: That is the point right there. He
21 immediately says "Yes," and Mr. McKee and that and that.

22 MR. TOWNSEND: That certainly is pertinent. Just a
23 minute, Mr. Eccles. The Hearing Officer is talking to his
24 assistant. When he is through with that I want to make an
25 observation.

THE HEARING OFFICER: Governor Eccles, did you intend to answer "yes," and the balance of the statement is an explanation of your answer?

THE WITNESS: Yes, that is right.

THE HEARING OFFICER: Then the witness' answer will stand.

BY MR. STEWART:

Q And that impression to which you testified is the same impression which you have already told us this morning Mr. L. M. Giannini disagreed with and said was different from his understanding when you brought it up to him for the first time, is that correct?

A Yes, that is correct.

Q All right. Now, referring again to your testimony at Page 576 of the record, where the following appears: "Question: Did he tell you what deals they were?"--the "he" referring to Mr. Giannini. "Answer: No, he didn't. He didn't tell us. He said there were some, that they had what he figured were some commitments that he wasn't at liberty to tell us, and that he would expect to consummate those deals and then any further expansion would not be undertaken if an arrangement could be worked out that his people would agree to and that would be, also, acceptable to other bank holding companies."

You did not mean by that testimony, did you, Mr.

1 Eccles, to imply that Mr. Giannini declined to give you any
2 information that you asked for at that February 1943 meeting?

3 A No. He only declined to give us the information
4 with reference to, I think it was two or three banking
5 situations that they had been negotiating for.

6 Q He did tell you that there were two or three commit-
7 ments that--

8 A That is right.

9 Q And he told you something about them, didn't he?

10 MR. TOWNSEND: Had you finished your answer to the
11 other question?

12 THE WITNESS: No, he didn't tell us anything about
13 them that I recall.

14 BY MR. STEWART:

15 Q Let me call your attention to the statement, I
16 believe on Page 4 of Board's Exhibit 39, reading as follows:
17 "And whatever plan might be adopted, he would like to be
18 permitted to carry out commitments in two situations which
19 had not been brought to the attention of the Board, one
20 apparently in written form, involving an exchange of National
21 City stock now held by Transamerica, and another not in writing
22 where he felt, nevertheless, a moral obligation which he
23 thought was fully as binding as a written commitment."

24 Let me call your further attention to the statement
25 in the conclusions listed in Board's Exhibit 39, in Conclusion

1 No. 4: "Provided all the banks which they now have could
2 be retained together with the two regarding which Mr. Giannini
3 said he had outstanding commitments."

4 He did at least tell you that much about them,
5 didn't he?

6 A Oh, yes. Yes, he talked very freely and the atmos-
7 phere, I would say, under the circumstances, considering the
8 disagreements that existed, ^{was} cordial. The Board was extremely
9 anxious and Mr. A. P. seemed to be anxious to be able to
10 reach some satisfactory accord, and we spent a good part of
11 the day in the discussion.

12 Q My question, sir, is that Mr. A. P. Giannini did
13 not refuse to give you any information you asked for at the
14 time about those commitments, did he?

15 A Well, yes. He would not give us any more information
16 than is indicated there.

17 Q Did you ask for any more?

18 A Yes, we did.

19 Q What did you ask for that he didn't give you?

20 A We asked him about whether they were substantial
21 institutions or whether they were--what we asked him, we
22 were trying to ascertain the importance of the commitments
23 and he said that he didn't feel that he was at liberty to
24 tell us and we didn't press him any further.

25 Q I want to be very clear about this, Mr. Eccles, because

1 I think it only fair for me to tell you that it is my under-
2 standing from Mr. Giannini that you didn't ask him for any
3 more than he told you about the commitments.

4 Now, do you disagree with that?

5 A We did what we could to find out.

6 Q Did you ask him for any more information about the
7 commitments he discussed than he voluntarily gave you?

8 A As I recall, we tried to find out what the commit-
9 ments were, whether they were substantial or otherwise, and
10 he said that he didn't feel at liberty to tell us anything
11 further about them at that time.

12 Q And you are sure of that in your own memory, even
13 though I tell you his memory is inconsistent with that, are you?

14 A That is my recollection and I recall discussing--
15 Mr. McKee raising the matter lately--not lately, I mean con-
16 siderably after this period, after it became known that one
17 of those commitments was the Citizen's Bank, I recall that
18 Mr. McKee rather laughed about the matter and said that
19 certainly A. P. gave the impression that they were unimportant
20 commitments, and when it turned out to be the Citizen's Bank
21 in Los Angeles with thirty some-odd branches, it proved to
22 be a big shock to all of us.

23 Q You knew from the fact that he told you that it
24 involved an exchange of National City stock, that it was not
25 just an ordinary, little deal, didn't you?

1 A We knew it involved an exchange of National City
2 Bank stock, but we didn't know how large an exchange and we,
3 of course, had no idea that it was all a deal that involved
4 an outfit with thirty or forty branches in the City of Los
5 Angeles.

6 Q You did not mean by the testimony you have given
7 here, the testimony that I quoted to you a few minutes ago,
8 to deny the accuracy of Board's Exhibit 39, did you, Mr. Eccles?

9 A No, I did not.

10 Q And you still say that Exhibit 39 is an accurate
11 statement in the middle of Conclusion No. 4, that at the
12 conclusion of the conference, one of the tentative conclusions
13 reached was that all of the banks, which they now have, could
14 be retained, together with the two regarding which Mr. Giannani
15 said he had outstanding commitments?

16 MR. TOWNSEND: What page is that on?

17 MR. STEWART: My copy does not run page for page
18 with yours. It is the paragraph numbered 4.

19 MR. TOWNSEND: You didn't read the whole paragraph,
20 did you?

21 MR. STEWART: No, I only read the part of it that
22 related to this subject. I don't mind/^{your}reading the rest,
23 but it doesn't have anything to do with what we are talking
24 about.

25 MR. TOWNSEND: The paragraph reads as follows:

1 "That confronted with the possibility of freezing or a
2 death sentence for bank holding companies, he was willing
3 to accept some sort of an arrangement which would restrict
4 further expansion of the Transamerica Group unless requested
5 by the Federal supervisory authorities, provided all the
6 banks which they now have could be retained, together with the
7 two regarding which Mr. Gianinni said he had outstanding
8 commitments."

9 THE WITNESS: What was the question?

10 BY MR. STEWART:

11 Q The question was that by your testimony here in
12 answer to these last several questions, you did not mean to
13 suggest that the last portion of that Conclusion No. 4, which
14 Mr. Townsend has just read, was in any way inaccurate, did
15 you?

16 A No. I think that that is very definitely--even
17 without reading this, I recall that Mr. Giannini was anxious
18 to retain all of the banks that they had, if such an arrange-
19 ment was entered into.

20 Q And such an arrangement was indicated to be an
21 agreement to the Board at that time without any formal agree-
22 ment being made on it?

23 A The Board at that time made no commitment whatever.

24 Q I understand, neither the Board nor Mr. Giannini
25 made any final commitment at that time, but that was the

1 substance of what was being discussed at that time, wasn't
2 it?

3 A That was the substance of what was being discussed.

4 Q And at the conclusion of that conference, referring
5 to two paragraphs above where the numbered paragraphs begin,
6 I think it is on Page 5 of the exhibit, let me direct your
7 attention to the sentence beginning, "At the conclusion of
8 the conference, it was understood that he"--that is Mr.
9 Giannini--"expected to discuss the possibilities of the
10 situation with his son and others to whom he referred as
11 'his boys'."

12 That also is correct, isn't it, Mr. Eccles?

13 A Yes, as I recall.

14 Q And it is also correct as indicated in the first
15 paragraph following Conclusion No. 5 on the next page, "that
16 the conference ended without any directives, as Mr. Giannini
17 stated he wanted to report the conversations to his associates
18 and it was understood that the Board or a committee of Board
19 members would, likewise, report the discussions to the other
20 Federal supervisory agencies."

21 That is correct, isn't it?

22 A Yes.

23 Q And isn't it a fact that Mr. Giannini no more under-
24 took to commit the active, managing officers of either Trans-
25 america Corporation or Bank of America to any agreement than

1 did the Board undertake to commit the other Federal super-
2 visory agencies to an agreement at that time?

3 A I think that speaks for itself.

4 Q That is my interpretation of it, sir. I just wanted
5 to be sure that you agree with that.

6 A Except, I would like to call your attention to
7 this part: "that in typical A. P. fashion, he wanted to know
8 why, under such circumstances, we didn't take over the banks
9 and run the outfit. He accepted, apparently without reser-
10 vation, the idea that he was the dominant or controlling
11 figure in the Transamerica Group and its banking interests,
12 regardless of any technical or legal question of control and
13 that when he spoke he represented all, any or all of them to
14 which he might be referring."

15 Regardless of that conclusion in the memorandum,
16 he did make it clear at the end of the meeting that he
17 had to take the matter up with his son and the other active
18 officers to whom he referred as "his boys" before he could
19 make any commitments, didn't he?

20 A That is right.

21 Q Referring particularly to the second sentence in
22 the third paragraph of the memorandum, I don't know whether
23 that is on Page 2 or Page 3 of your copy, and to Conclusion
24 No. 4, you will find in both of those places the phrase "re-
25 quested by the appropriate supervisory authorities."

1 Isn't it a fact, Mr. Eccles, that the conver-
2 sation actually proposed submission by the bank holding com-
3 panies of proposed acquisitions to the supervisory author-
4 ities for advance approval, rather than that the holding
5 companies would sit idly by, awaiting requests from the
6 supervisory authorities as to when they might make an ac-
7 quisition?

8 Is that question clear?

9 A I wouldn't be certain of that.

10 Q In any case, the important thing was that there
11 was to be advance approval, regardless of whether the
12 initiation of the request came from the Board or from the
13 corporation?

14 A Yes. That was the principal objective.

15 Q Yes. In Conclusion No. 5 of the memorandum, it
16 is stated that such an arrangement was contingent in his
17 mind, that is, in Mr. A. P.'s mind, upon all other bank
18 holding companies being subject to corresponding restrictions.

19 Isn't it a fact, Governor, that you agreed to
20 undertake to obtain the consent of all other bank holding
21 companies to such restrictions at that time?

22 A I am not certain whether we agreed to undertake
23 that or not.

24 Q Again, to be fair with you, I want you to know
25 that it is Mr. A. P. Giannini's recollection that you did

1 most definitely undertake that commitment.

2 Now, do you agree with his recollection of that
3 or not?

4 MR. TOWNSEND: Before you answer, Mr. Eccles, I
5 suggest that you refresh your recollection by further refer-
6 ence to the document in the last part of the paragraph just
7 preceding the last paragraph on Page 4.

8 MR. STEWART: If the Hearing Officer please, the
9 witness has not indicated any need to refresh his recollection.
10 I think he can determine that without suggestions by counsel
11 in the midst of cross examination.

12 MR. TOWNSEND: We are after the truth in this pro-
13 ceeding.

14 MR. STEWART: We certainly are.

15 MR. TOWNSEND: Not a tricky exchange between
16 counsel on either side. We have made this available. There
17 was no need to make it available, Mr. Hearing Officer. I
18 could have put Mr. Eccles on the stand and have him testify
19 without any regard to what was the recorded conversation at
20 the time. We preferred to put on the recorded conversations
21 of all the Board members, that part which would satisfy Mr.
22 Stewart and that part which perhaps didn't.

23 I think that is perfectly appropriate here, so
24 let's get at the truth and not at a lot of tricky questions
25 that are aimed at establishing some tricky answers.

1 MR. STEWART: If the Hearing Officer please, I
2 resent the comment of counsel. There isn't any trickiness
3 about this questioning. I am trying to get at the truth.
4 I am even calling the attention of the witness to the state-
5 ments that have been made to him by my client, so that he
6 will know exactly what he is faced with and in the answers
7 that he is giving.

8 As to trickiness, counsel has given me a few papers
9 which he has selected from the files and has most pointedly
10 and obviously refused to give me other papers which have been
11 requested repeatedly throughout this proceeding and which
12 he insists ^{upon} keeping behind locked doors and away from my sight.

13 I think there is enough trickiness here without
14 aspersions being cast upon an open question.

15 THE HEARING OFFICER: Statements by counsel on either
16 side contribute very little to the record and I suggest
17 in this instance the solicitor for the Board await until
18 later, when ample opportunity will be afforded him on re-
19 direct examination.

20 Proceed, Mr. Stewart.

21 MR. STEWART: There is an unanswered question.
22 Can the Stenographer find it?

23 (The pending question was read by the Reporter.)

24 THE WITNESS: I think that, as I recall, we told
25 Mr. Giannini that we would make such an undertaking, but

1 that inasmuch as all the other holding companies had not
2 undertaken any acquisition of bank stocks without taking
3 it up, that there would be, of course, some question as to
4 why they should enter into such an arrangement, but we would
5 be willing to do so and I think that at least my recollection
6 is that the other bank holding companies should be willing to
7 enter into such an arrangement.

8 MR. STEWART: Is this a convenient time for the
9 usual mid-morning recess, sir?

10 THE HEARING OFFICER: We will recess for ten minutes.

11 (Recess taken.)

12 THE HEARING OFFICER: The hearing will please come
13 to order.

14 (Discussion off the record.)

15 BY MR. STEWART:

16 Q Governor Eccles, isn't it a fact known to you that
17 a few weeks after Mr. Giannini's conference with the members
18 of the Board, and on April 6, 1943, a further conference was
19 held between Governor John McKee and Mr. Dreibelbis, General
20 Attorney for the Board of Governors and Mr. Charles W. Gilins,
21 an attorney representing Transamerica Corporation and the Bank
22 of America on the same subject?

23 A I don't recall such a conference being held. I
24 wasn't in attendance. I may--

25 Q Well, you did know about the conference, didn't you?

1 A I may have known about it at the time, but I don't
2 recall whether or not I was informed.

3 Q You don't recall being informed that at such a con-
4 ference the conclusions reached at the February conference
5 were reviewed?

6 A I do not.

7 Q I take it, then, that you don't know about the
8 questions which were raised by Mr. McKee at that meeting?

9 A I do not. I was--during that period it was the
10 middle of the war, and as Chairman of the Open Market Com-
11 mittee, handling all of the war financing and other respon-
12 sibilities that I had, I was pretty well occupied with even
13 more important matters than the Transamerica case.

14 Q Don't you recall learning at that time that Mr.
15 McKee raised questions with Mr. Collins as to whether the
16 Board would adhere to the conclusions reached at the February
17 meeting in respect to the immigration of banks owned by
18 Transamerica and those involved in the existing commitments
19 which had been mentioned by Mr. Giannini?

20 A I recall no part of the conference. I was not in
21 attendance at the conference.

22 MR. STEWART: May I have the letter, please?

23 MR. TOWNSEND: I would rather you make the demand.

24 MR. STEWART: I have asked counsel to produce
25 from the Board's files a copy of a letter dated April 13, 1943,

1 written by Mr. A. P. Giannini to Mr. Charles W. Collins,
2 which copy I understand was delivered by Mr. Collins to Mr.
3 McKee at a subsequent meeting on April 15, 1943.

4 MR. TOWNSEND: Of course, I have the copy of the
5 letter and I have no objection to counsel seeing it, if the
6 Hearing Officer approves the turning of the Board's files
7 over to counsel.

8 THE HEARING OFFICER: No objection.

9 MR. STEWART: This, of course, isn't files, sir,
10 it is only one letter.

11 I ask that the paper produced by the Solicitor for
12 the Board, consisting of an original, dated April 15, 1943,
13 from Charles W. Collins to Governor John K. McKee, and a
14 copy of a letter from Mr. Giannini to Mr. Collins, dated
15 April 13, 1943, and also a copy of a memorandum entitled
16 "Summary Statement of Policy," April 6, 1943, by Governor
17 John K. McKee (with whom was Mr. J. P. Dreibelbis, General
18 Attorney), of the Board of Governors of the Federal Reserve
19 System, to Mr. Charles W. Collins, counsel for Transamerica
20 Corporation and Bank of America N. T. & S. A., together with
21 a copy of a telegram sent by Mr. Collins to Mr. A. P.
22 Giannini on April 12, 1943; I ask that those papers be marked
23 as Respondent's Exhibits 7-A, 7-B, 7-C, and 7-D for identifi-
24 cation.

25 THE HEARING OFFICER: They may be so marked.

(The documents referred to were marked Respondent's Exhibits 7-A, 7-B, 7-C, and 7-D for identification.

BY MR. STEWART:

Q I show you, Governor Eccles, the four papers which have just been marked respectively 7-A, 7-B, 7-C, and 7-D for identification, and ask you if those papers came to your attention at or about April 15, 1943? I direct your attention to the fact that on the first paper, 7-A, your name appears with a checkmark opposite it.

A I have no recollection of having seen the papers and I, of course, would have to assume responsibility for having seen them even though I may not have seen them, because the amount of papers that are circulated among the Board members are very, very extensive, covering every subject, of course, which each individual member of the Board has an equal responsibility for, and so I have often left it up to my assistant, my office to read papers and to check them, unless they feel that it ^{is} something that should specially be brought to my attention.

Q That assistant at that time was Mr. Lawrence Clayton, was it?

A Mr. Thurston, as well as Mr. Clayton, and likewise my secretary, Miss Egbert and Miss Benton. There were four people in my office, in my immediate office.

Q And the checkmark on the Exhibit 7-A, opposite your

1 name, indicates at least the paper came through your office
2 and you had an opportunity to examine it, whether you recall
3 actually doing it or not, doesn't it?

4 A It went through every Board member's office and
5 every staff head's office who had anything to do with the
6 matter, and there is a checkmark opposite all of them and
7 there is no initial on any of them. Very often when I see
8 a paper, I initial it.

9 Q Calling your attention to Exhibit 7-B, which is
10 the second of the papers in the group that you have in your
11 hand, I will ask you if you are familiar now with the substance
12 of that letter?

13 A I would have to read the letter to answer that
14 question. I don't recall ever having seen or read the letter.

15 Q I will ask you now to read it and see if that re-
16 freshes your recollection.

17 Have you finished reading the letter, sir?

18 A Yes sir. I don't recall having seen or read the
19 letter.

20 Q Your present best recollection is that you never
21 saw that letter before I handed it to you here this morning,
22 is that correct?

23 A That is correct.

24 Q Now that you have read the letter and know what was
25 in it and know the date from which it has been in the Board's

1 files, isn't it clear to you that the Board at least had the
2 opportunity to know and those of them who read the letter
3 at that time knew that as of April 15, 1943, Mr. A. P.
4 Giannini regarded himself as free of any and all tentative
5 commitments discussed at the February meeting because of the
6 Board's subsequent effort to change the terms of the proposed
7 agreement?

8 A Yes, I would take it from the letter that this was,
9 in effect, notice to the Board that he did feel free--

10 Q For the reason that I have stated?

11 A That is right.

12 Q All right, sir, just so that the record may be clear
13 as to what those questions related to, I will read that one.
14 I won't put the whole thing in at this time.

15 MR. TOWNSEND: Before you do, Mr. Stewart, I should
16 like to suggest, Mr. Hearing Officer, that the letter has
17 not yet been properly identified and that until such time
18 that it is properly identified and put into the record in this
19 case, that it would be inappropriate for counsel to read it,
20 not that I have any objection to its being introduced at
21 this time into evidence, but I think in order to keep the
22 record straight that we ought to proceed in a fashion that
23 is in accordance with customary procedure

24 MR. STEWART: I am a little bit surprised at
25 counsel's statement in view of the fact that he produced it

1 from the files. My only reason for not putting it in evidence
2 at this time is that we are still on the Board's case and it
3 seems to me more appropriate to withhold putting any of the
4 Respondent's Exhibits in evidence until we get to Respondent's
5 case, but I think the record would be clearer as to the subject
6 of my last questions of Mr. Eccles if this letter that he has
7 examined and commented on were read into the record.

8 MR. TOWNSEND: That, of course, can be done at the
9 appropriate time, or if Mr. Stewart wants to read the entire
10 file into the record, I am perfectly agreeable to his doing
11 it, but I don't want him picking out one of these documents
12 and reading only the one document. If Mr. Stewart wants to
13 read the entire set of papers into the record, I have no
14 objection.

15 MR. STEWART: As in the case of some previous offers
16 of my friend, I have no desire to read more than one letter,
17 but I won't object to his putting in any part of the file that
18 he wants to.

19 THE HEARING OFFICER: It will be satisfactory to
20 read the letter, Mr. Stewart, with the understanding that
21 you will put it in evidence at the proper time.

22 MR. STEWART: Yes sir.

23 MR. TOWNSEND: What about my objection, Mr. Hearing
24 Officer, against his reading only a portion of the group at
25 this time?

THE HEARING OFFICER: The objection is overruled.

MR. STEWART: This appears to be a copy of a letter on Bank of America National Trust and Savings Association letterhead, A. P. Giannini, Chairman of the Board of Directors, San Francisco, California, April 13, 1943. The address is to Mr. Charles W. Collins, Attorney-at-law, National Press Building, Washington, D. C.

"Dear Charlie: Your letter of April 7, which arrived here on Saturday, the 10th, and your telegram of April 12, are strong indications of the practical impossibility of carrying out the program which was agreed to in the friendly conference with certain members of the Board of Governors of the Federal Reserve System on February 18.

"After your first talk with Governor McKee, following the conference, you will recall your report to me, that it was understood that I had agreed to certain 'freezing' proposals, provided the same would be equally applicable to other banks and holding companies; that I was to endeavor to secure the commitment to that effect by corporations with which I am associated; that Chairman Eccles would undertake to obtain like commitments from other corporations concerned; and that the Board would also endeavor to obtain the cooperation of the other two banking agencies.

"Pursuant to this understanding and preliminary to a formal commitment on the part of Transamerica Corporation

1 and Bank of America, I express to you my recollection of
2 the elements of our agreement. After going over them with
3 Governor McKee and his counsel, you report in a memorandum
4 accompanying your last letter, and in your telegram of
5 yesterday, certain vital changes in the agreement. For in-
6 stance, it is proposed that Transamerica Corporation should
7 agree to cease acquiring holdings of stock in additional
8 banks, except upon the recommendation and approval of the
9 Board of Governors of the Federal Reserve System. It was
10 distinctly understood that upon the consummation of the pro-
11 gram, neither Transamerica Corporation nor other bank hold-
12 ing companies would acquire any interest in any other bank
13 or banks without obtaining the prior approval or consent of
14 the Board of Governors of the Federal Reserve System.

15 "Now a further restriction is proposed to the effect
16 that such acquisitions must await the 'recommendation' of
17 the Board of Governors. Such a restriction is obviously
18 improper and was not agreed to.

19 "I recall stating at the conference that we were
20 not especially fearful of the anticipated effects of anti-
21 holding company legislation and that we assumed that any
22 such legislation would have reasonable regard for existing
23 situations.

24 "It appears that Governor McKee now assumes that
25 it is unnecessary to secure commitments from other bank

1 holding companies such as is desired from Transamerica
2 Corporation and from Bank of America. If such commitments
3 are not necessary from other bank holding companies and
4 other banks, they, of course, are not necessary from Trans-
5 america Corporation or Bank of America. We have never sought
6 and do not now seek any exceptional treatment.

7 "As I stated at the conference, we ask only to
8 be placed upon a plane of equality with others. It was my
9 understanding that any commitment of Transamerica Corporation
10 and the Bank would be conditioned upon similar commitments
11 by others and that the Board was to present the program to
12 the other supervisory agencies. Any lawful declaration of
13 policy by the Board or other supervisory authority applicable
14 to all banks and holding companies will, of course, be re-
15 spected by us in the future, as all such expressions have
16 been observed in the past.

17 "I repeat, we have no special interest in anti-
18 holding company legislation and we would not think of surrend-
19 ering our equal rights as American citizens as an inducement
20 to the avoidance of legislation which may be thought by some to
21 be undesirable. What is sauce for the goose is sauce for
22 the gander, so far as we are concerned.

23 "Another point of difference is that while it is
24 conceded that banks have a legal right to acquire assets
25 and assume liabilities of other banks in the place where the

1 bank has an office, it is now desired to discriminate against
2 Bank of America in this respect by requiring it to agree
3 formally that it will not so exercise its charter power.
4 I recall very definitely that there was no such agreement
5 at the conference and I think all who were there will remember
6 that the legal rights of any existing bank or banks were
7 not to be curtailed in this respect so long as there would
8 be no resulting increase in banking offices of the purchasing
9 bank in the particular location. This is the exercise of
10 a charter power which is common to all banks and which they
11 may have occasion to exercise at any time.

12 "We have not assented and will never assent to any
13 attempt to discriminate against Bank of America in this
14 respect, nor will we ever concede that public authorities may
15 properly favor the exercise of such a charter power by
16 certain types of unit or branch banks only.

17 "I am perfectly willing to carry out all of the
18 agreements to which I expressed assent during our February
19 conference, but achievement of the purposes there expressed
20 cannot be attained if vital changes are insisted upon.
21 I am mindful, too, that the comments made by Honorable Leo
22 T. Crowley, Chairman of the Federal Deposit Insurance Corpor-
23 ation, and Honorable Marriner S. Eccles, Chairman of the Board
24 of Governors of the Federal Reserve System, concerning Trans-
25 america Corporation and Bank of America at recent hearings

1 before the Banking and Currency Committees of the Senate
2 and House of Representatives, do not promote the spirit of
3 accord which seemed to prevail at those conferences.

4 "Consequently, these appearances only add to the
5 difficulty of removing the elements which have engendered
6 friction in the past. The impressions left by them are
7 so distorted and unfair that perhaps thorough 'airing' all
8 along the line would be a good thing.

9 "Altogether, Charlie, it would appear, notwith-
10 standing my accustomed urbanity and the earnestness of
11 my desires for constructive cooperation, that as an emissary
12 of peace and harmony I am a dismal failure. I am somewhat
13 chagrined to have to go before our Board of Directors today
14 and confess to them that the enterprise upon which I volun-
15 tarily engaged with glowing prospects of success has come
16 to nought. If they will act on my recommendation, it will
17 be that efforts at further understandings be committed to
18 other hands.

19 "You are authorized to convey these sentiments
20 to Governor McKee and the other gentlemen who were present
21 at the conference. Kind regards. Sincerely, signed A. P.
22 Giannini."

23 Do you want to read any of the rest of it at this
24 time, or you can do it when it comes around to you. I may
25 have photostats of those made.

1 BY MR. STEWART:

2 Q Mr. Eccles, do you recall that at some time in
3 the early part of the year 1942, the Board of Governors,
4 of which you were then chairman, had an agreement with the
5 Comptroller of the Currency and the Federal Deposit Insurance
6 Corporation that your Board and those other two bank super-
7 visory agencies as well would decline permission for the
8 acquisition, directly or indirectly, or any additional banking
9 offices or any substantial interest therein by Transamerica
10 Corporation, Bank of America National Trust and Savings
11 Association, or any unit of the Transamerica Group, as you
12 call them?

13 A I think that letter was put in the record a day or
14 two ago.

15 Q And the letter to which you refer is the letter to
16 Transamerica Corporation, dated February 14, 1942, which has
17 been marked Board's Exhibit 35 in this case?

18 A That is correct. That is the letter.

19 Q And that was the formal notification to Transamerica
20 of the agreement to which I referred in my previous question?

21 A The understanding between the three supervisory
22 agencies.

23 Q Yes. Isn't it a fact that pursuant to that agreement,
24 the Reserve Board has refused every application presented to
25 it, related to banks or banking offices in the State of

1 California in which Transamerica Corporation had any in-
2 terest of any kind whatsoever from February 14, 1942 to
3 date?

4 A I think that is correct.

5 Q And, also, isn't it a fact that pursuant to that same
6 agreement, the Board imposed a condition which was later the
7 subject of litigation, in which the Court of Appeals of
8 this District held the condition to be a legal--a condition
9 upon the membership in the Federal Reserve System of the
10 People's Bank of Lakewood Village, California?

11 A There was a condition of membership, I think, imposed,
12 as you indicate.

13 Q And that condition read as follows, didn't it,
14 Governor: "4. If, without prior written approval of the
15 Board of Governors, the Federal Reserve System, Transamerica
16 Corporation, or any unit of the Transamerica Group, including
17 Bank of America National Trust and Savings Association, or any
18 holding company affiliate or any subsidiary thereof acquires,
19 directly or indirectly through the mechanism of loans for
20 the purpose of acquiring bank stock or in any other manner
21 any interest in such banks, other than such as may arise out
22 of usual correspondent bank relationships, such bank, after
23 60 days of written notice of the Federal Reserve System, shall
24 withdraw from membership in the Federal Reserve System."

25 A I don't recall the condition, but if you say that is
what it is, I am willing to accept that.

1 MR. TOWNSEND: I read that from the record in the
2 case.

3 THE WITNESS: Yes.

4 BY MR. STEWART:

5 Q Now, Mr. Eccles, you are familiar, are you not,
6 with the requirements of Section 12B of the Federal Reserve
7 Bank, that the Board of Governors of the Federal Reserve
8 System take into consideration certain factors in the con-
9 sideration of the application of a member bank to establish
10 branches?

11 A I couldn't say that I am familiar with that section.
12 If you will read me what it is, I might be.

13 Q Let me refresh your recollection. That is the
14 section, sir, which provides that upon an application by a
15 member bank to establish branches, the Board must consider
16 the financial history and condition of the bank, the adequacy
17 of its capital structure, its future earnings prospects, the
18 general character of its management, the convenience and needs
19 of the community to be served by the bank and whether or not
20 its corporate powers are consistent with the purposes of the
21 section. Do you recall it now?

22 A Yes.

23 Q And you have been familiar with that all the time
24 you have been a member of the Board, haven't you, Governor?

25 A What happened in connection with membership in the

1 system, the San Francisco Reserve Banks have their
2 examiners usually make an examination and make a report.
3 That report is considered by the Board's staff, the Board
4 lawyers, and one member of the Board has the assignment for the
5 Board of a problem of the questions of bank membership, bank
6 examinations and other related subjects and the matters of
7 membership come before the Board after they have been processed
8 with the staff and that particular bank member, and if there is
9 any question of anything unusual or disapproval, it is taken
10 up specially with the Board. Otherwise, they are approved on
11 circulation. That is the procedure with reference to the
12 question of membership of any bank.

13 Q That is the normal procedure?

14 A That is not normal. That is the regular procedure.

15 Q That is not the procedure that the Board has followed
16 in the case of applications related to banks in which Transameri
17 was interested since February 14, 1942, is it?

18 A That would be an unusual situation and would no
19 doubt be brought to the attention of the Board. I have merely
20 said that the assignment in this particular case of Mr. McKee,
21 a Board member, it was an assignment and every application
22 that came in would be processed and the condition of member-
23 ship that you refer to was no doubt a condition that the lawyers
24 for the Board, the examiners for the Board, together with Mr.
25 McKee, recommended. The Board accepted their recommendation.

1 Q My point, sir, is that you have told us the pro-
2 cedure that is normally followed by the Board for the applica-
3 tion of the conditions set out in Section 12B of the Federal
4 Reserve Act.

5 MR. TOWNSEND: Just a moment. I am just wondering,
6 Mr. Stewart, if you are not referring in 12B to requirements
7 relating to insured banks.

8 MR. STEWART: By cross reference incorporated in
9 the other section.

10 MR. TOWNSEND: Not in respect to branches. The
11 section you are referring to talks about conditions of
12 membership. I think you want Section 9, if you are talking
13 about the People's Bank Case. That is all I wanted to get the
14 record straight on.

15 MR. STEWART: I am not talking about the People's
16 Bank Case, except as one illustration of the application by
17 the Board of its policy.

18 MR. TOWNSEND: In any event, I just wanted the
19 record to show ~~that~~ Section 12B is applicable in its entirety
20 to insured banks and that while insured banks admitted to
21 membership require the Board to do certain things, that the
22 subject of branches of insured banks normally would, except
23 in the absence of a member bank, would be acted upon solely
24 by the FDIC and only in the case where it is a member bank
25 that applies for branches, does the Board act thereunder.

1 MR. STEWART: I thank counsel for his reminder but,
2 of course, that is not what I am talking about in my question.

3 MR. TOWNSEND: You have certainly confused me,
4 then, and I am just wondering if the witness couldn't like-
5 wise have been confused, because I thought you were talking
6 about the People's Bank Case and drawing to the attention of
7 the witness the procedure that was followed in that case, which
8 is quite different from the question of the establishment of
9 a branch.

10 MR. STEWART: No, I am not. I will see if I can
11 eliminate the confusion.

12 BY MR. STEWART:

13 Q It is a fact, is it not, Governor Eccles, that
14 the factors applicable under the law to the consideration of
15 applications of state member banks for branches --

16 MR. TOWNSEND: Not under 12B but Section 9.

17 MR. STEWART: Under the second paragraph of
18 Section 9 are the same as those which I have previously called
19 to your attention in Section 12B(g).

20 I think, sir, that for our present purposes we can
21 dispose of the point this way: There seems to be some
22 slight disagreement between counsel and me as to the exact
23 sections here and I cannot locate at the moment the section
24 which I have in mind, but I think for the purpose of --

25 MR. TOWNSEND: There is the provision with respect

1 to national banks, which is the same with respect to state
2 member banks. None of the conditions which you have read
3 here are applicable in either of those cases. It is just
4 a requirement of approval.

5 MR. STEWART: Well, all right. Without taking the
6 time to go into ~~what~~ the exact requirements are in the statute
7 as to a national bank or as to a state member bank or as to
8 an insured bank, which is neither a national nor a state
9 member bank, the point that I want to make clear on the
10 record, Governor, is this: The procedure which you have des-
11 cribed, which was normally followed in the case of applica-
12 tions for branches, which had to be processed by the Board
13 was not followed after February 14, 1942, in the case of
14 applications relating to banks in which Transamerica Corpora-
15 tion had an investment. Is that correct?

16 THE WITNESS: You mean in connection with their
17 application for membership or their application for the
18 establishment of a branch?

19 BY MR. STEWART:

20 Q Correct.

21 A Yes, I would think, in view of the record, that
22 would be true.

23 Q That means then, doesn't it, Governor, that by that
24 agreement of the Board of Governors with the two other bank
25 supervisory agencies of the government and notwithstanding the

1 provisions of the Federal Reserve Act and the national banking
2 laws, designating the procedure and factors to be considered
3 upon various kinds of applications, the Board, in effect,
4 agreed with the other agencies that in this particular case,
5 that is, of application affecting banks, in which Transamerica
6 Corporation had an interest, it would disregard its duty under
7 the law and deny all such applications regardless of the
8 merits of the application.

9 MR. TOWNSEND: At this point may it please the
10 Hearing Officer I rise to object on the ground that the question
11 is wholly and completely argumentative. It calls for the
12 conclusion of this witness. It is a matter which can best be
13 reserved for Mr. Stewart's final argument, wherever that
14 may be, in connection with what these facts add up to. It
15 seems that it is entirely inappropriate for him to argue in the
16 fashion in which he is attempting to do with the witness on
17 this subject. If he asks about the facts, I have no objection;
18 if he asks about conclusions, in which he has made statements
19 as freely as he made in the last one, I most certainly think
20 I am entitled to object.

21 MR. STEWART: I freely concede that it calls for a
22 conclusion which I am entitled to on cross. As to the
23 question being argumentative, I think the Hearing Officer
24 will realize there is no argument involved. It is a request
25 for the witness' conclusion to the effect stated in the question.

1 It is the first question of the kind I have put to this
2 witness.

3 THE HEARING OFFICER: The question is argumentative,
4 but the witness may answer it, if he chooses.

5 THE WITNESS: The letter of February 14th, that
6 Mr. Stewart had me read seems to me to be an adequate answer
7 to that question and I have nothing further to say.

8 MR. STEWART: All right, sir. You mean the letter
9 which has been marked as Board's Exhibit 35 in this case?

10 THE WITNESS: That is correct.

11 BY MR. STEWART:

12 Q Now, Mr. Eccles, do you recall that in or about the
13 month of June 1943 Transamerica Corporation was preparing to make
14 a public distribution of 100,000 shares of Bank of America
15 stock which it then owned?

16 MR. TOWNSEND: If you know.

17 MR. STEWART: I asked him if he recalled.

18 THE WITNESS: What was the date you said?

19 BY MR. STEWART:

20 Q In or about the month of June, 1943. That is
21 just a few months after this February 1943 conference you have
22 been talking about.

23 A I do not recall that distribution. The only dis-
24 tribution I can recall is the -- I think it was the first
25 distribution that they made at the time that the voting permit

was being considered when they were reducing their holdings,
I think, to 42 per cent.

Q Let me call your attention, sir, to the language
I used in my question. I think you may not have correctly
understood me.

The occurrence to which I am referring is not a
distribution to stockholders, but a public distribution or
sale of 100,000 shares of Bank of America stock, owned by
Transamerica.

A I do not recall that.

Q You do not recall that?

A I do not recall that.

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1 Q I take it then that you do not recall the public
2 announcement about that issue at the time and about the
3 various investment banking firms that were interested in it?

4 A Now that you mention it, I do have some hazy
5 recollection about it, but I don't remember any details.

6 Q Perhaps it will help refresh your recollection if
7 I tell you that one of the investment banking firms which had
8 been publicly announced as being interested in that issue was
9 the First Boston Corporation, the Chief Executive Officer
10 of which was Mr. Allen Pope.

11 A I believe vaguely I do. It seems to me that Mr.
12 Pope called me up or called McKee and McKee spoke to me about
13 the Board and the supervisory agencies' relation to Transamerica
14 and whether or not we were getting along. I seem to remember
15 that.

16 Q I think now your memory is being stimulated to the
17 point to which my questions were addressed. Just go right
18 ahead and tell us about that.

19 A I recall that the facts were reported to Mr. Pope,
20 somebody connected with them, and I take your word that it wasn't
21 First National.

22 Q First of Boston.

23 A I don't recall that. I think merely the facts of
24 the situation that existed at that time between the supervisory
25 agencies was reported.

1 Q And that was after Mr. Pope's company's interest
2 in this proposed distribution had been publicly announced,
3 wasn't it?

4 A I wouldn't say that. I don't recall. I wouldn't
5 know whether it was or not.

6 Q Do you recall the fact that after this conversation,
7 to which you have referred, in fact immediately thereafter the
8 First Boston Corporation publicly announced its withdrawal from
9 any participation in that issue?

10 A I do not recall that.

11 Q All right. Isn't it customary, Mr. Eccles, in all
12 of the bank regulatory agencies for any agency which believes
13 that there has been a violation of any law which it has
14 responsibilities to administer, to notify the party believed
15 to be in violation and invite informal comments upon the
16 question in advance of the filing of formal charges and
17 initiation of any formal complaint or proceeding?

18 A It seems to me that this whole record is replete with
19 efforts to come to some sort of an agreement and I certainly
20 would not agree that the Transamerica Corporation and Bank of
21 America was not fully advised and informed, certainly as to
22 the feeling of the Board with reference to this situation and
23 certainly if they didn't expect, and certainly I do not see,
24 in view of the relationships that have been brought out here,
25 that they wouldn't expect the Board to use any powers or

1 authorities or that it thought that it had, or to carry out any
2 obligation that it felt that it had under the statute to bring
3 about a condition that was more satisfactory than the condition
4 that existed and if you are referring to the present case, it
5 would seem to me that the Transamerica people over the years
6 have had adequate notice as to the way the Board and other
7 supervisory agencies felt with reference to this continued,
8 unbridled expansion.

9 MR. STEWART: Mr. Hearing Officer, I move to strike
10 out the answer as wholly unresponsive to the question and
11 argumentative and if there is any doubt about it, I would
12 just like the stenographer to re-read the question.

13 Mr. Eccles, it seems to me, has been trying to anticipate
14 the next four questions that he thought I was going to ask,
15 instead of answering the question I asked.

16 THE WITNESS: If I have misunderstood the question,
17 I am sorry.

18 MR. STEWART: I think you did, sir. May I have the
19 answer stricken?

20 MR. TOWNSEND: I submit that all of this is pertinent
21 and relevant and if, as Mr. Stewart says, his questions have
22 been anticipated, maybe we have shortened the proceeding
23 somewhat.

24 MR. STEWART: No, I think we have only lengthened it.
25 May I have the answer stricken and I will start over?

1 THE HEARING OFFICER: You may let the answer stand.

2 MR. STEWART: Then I will repeat the question.

3 BY MR. STEWART:

4 Q Isn't it customary, Mr. Eccles, and regardless of
5 what you did here, isn't it customary in all of the bank
6 regulatory agencies for any agency which believes that there
7 has been a violation of any law which it has responsibilities
8 to administer, to notify the party believed to be in violation
9 and invite informal comments upon the question in advance of
10 filing formal charges in the initiation of any formal complaint
11 or proceeding? Isn't that customary?

12 A Well, it apparently wasn't --

13 Q You can answer that yes or no, can't you, Mr. Eccles?

14 A I was just going to say that it isn't always done.
15 I have in mind the time when the Treasury, Secretary of the
16 Treasury, filed their case with the SEC and, at the time, they sent
17 the wire, with reference to the discontinuance of dividend.

18 Q You mean, sir, that it isn't always done in the case
19 of Transamerica?

20 A Well, it wasn't done in that instance. Now, I
21 would say this, in answer to your question --

22 Q Isn't it customary generally?

23 A I would say that if -- let me put it this way: I
24 would say that no action would be brought against any corpora-
25 tion or individual, for that matter, by government agencies if

1 they felt that without conferring with them and advising with
2 them, if they felt that adequate notice had not been given,
3 that adequate effort had not been made, if they felt the
4 situation called for such consultation in order to be eminently
5 fair and considerate in the matter, and I feel in this instance
6 that the Board --

7 Q Now you are anticipating me again, sir.

8 A (Continuing) has been more than fair in giving the
9 Transamerica Corporation adequate notice as to its attitude
10 and as to its desire and as to its effort to either get
11 legislation or to carry out what was the intent of the Congress
12 in existing legislation or to use such other legislation as
13 was available to it.

14 MR. STEWART: Again, sir, I move to strike out that
15 portion of the answer which followed my interruption as being
16 unresponsive.

17 THE HEARING OFFICER: The answer may stand.

18 BY MR. STEWART:

19 Q Mr. Eccles, hasn't the custom of advance notifica-
20 tion and opportunity for informal comments by one accused by a
21 bank regulatory agency been uniformly followed in your
22 experience in Washington, with the exception of the
23 instances you have mentioned involving Transamerica Corporation?

24 A So far as I know, so far as I know that is true.

25 Q And at last up to the end of the year 1941, you never

1 suggested to any officer of Transamerica Corporation, or so far
2 as you know, neither did any other member of the Board,
3 that there was any objection by reason of the Clayton Act
4 to its acquisitions of banks or to the establishment of
5 additional branches by any bank in which it had an investment,
6 did you?

7 A It has been brought out here, the question of the
8 authorities, the obligation of the Board under the Clayton
9 Act had not been brought to the attention of the Board by
10 counsel of the Board until 19 -- I think it was --

11 Q 44?

12 A 1944, after certain Supreme Court decisions,
13 which were the reasons and the basis for bringing to the
14 attention of the Board their authorities and obligation under
15 the Clayton Act. Therefore, the Board, up to the end of 1941
16 certainly could not have called the attention of Transamerica
17 to the Clayton Act, because it hadn't been brought to their
18 attention.

19 Q Well, did you or, to the best of your knowledge,
20 any other members of the Board at any subsequent date, prior
21 to the actual formal filing of the complaint in this proceed-
22 ing, discuss with any officer of Transamerica Corporation
23 your claim that its activities constituted a violation of the
24 Clayton Act?

25 A I didn't, but I couldn't say what any other member

1 of the Board or the staff may have done.

2 Q And that is so, in spite of the custom that you
3 testified to and that you knew about? Is that correct?

4 A Well, in connection with what I have said before,
5 I would say yes.

6 Q Didn't you give consideration, Mr. Eccles, some
7 years ago to the possibility of selling your banks, or rather
8 the banks in which the Eccles Investment Company is interested,
9 the First Security Banks in Utah, Idaho and Wyoming, to Trans-
10 america Corporation?

11 A I never did. I think that Transamerica indicated
12 that they may be interested in acquiring them.

13 Q Didn't some of the officers of those banks, with
14 your knowledge, discuss the possibility of such a sale?

15 A They did not.

16 Q At least if they did it, it was not with your
17 knowledge, is that right?

18 A It was not with my knowledge.

19 Q Didn't you give consideration, prior to the year
20 1943, to the possibility of accepting a position yourself
21 as an officer of the First National Bank of Portland, Oregon.
22 in which Transamerica has an investment?

23 A I was indirectly importuned to go to that bank.
24 It was indicated that I could do so --

25 Q By whom?

1 A But I never -- as I recall, I am not sure whether
2 Mr. A. P. Giannini, Mr. Bennett, Mr. Stewart, through what
3 source that information came to me.

4 Q When you say "Mr. Stewart", you don't mean me, do
5 you?

6 A I meant Mr. Ashly Stewart.

7 Q Didn't you discuss that possibility of your going
8 to the First National of Portland with Mr. Lawrence Clayton at
9 the time he was negotiating for an official position in the
10 Bank of America?

11 A I don't recall that I did.

12 Q Do you recall that that consideration of a position
13 in Portland for yourself, whatever consideration it was, was
14 giving during the years of 1940 and 1941?

15 A I don't recall what the period was.

16 MR. STEWART: I see the pre-determined adjournment
17 hour is about here and counsel has just handed me a paper
18 which I will have to read before proceeding with the next
19 questions, so perhaps this might be an appropriate time to
20 adjourn.

21 THE HEARING OFFICER: I would like to read a little
22 notice.

23 "Counsel, in reading the record, I notice a few
24 instances where there are typographical errors or the wrong
25 word is used. Before the record becomes more voluminous, may

1 I suggest to counsel that they examine the record and, if
2 possible, agree on the necessary corrections. Thereafter,
3 a motion may be made for the agreed corrections. If counsel
4 do not agree on any such corrections, but still desire them
5 to be made, separate motions may be presented for that purpose."

6 MR. TOWNSEND: May I say, Mr. Hearing Officer,
7 that we have consulted between sessions and have undertaken
8 to attempt, before the hearings resume in California, to agree
9 on a revised form of the record.

10 THE HEARING OFFICER: That is entirely satisfactory.

11 The meeting will adjourn or recess until 10:30
12 Monday morning in this room.

13 (Whereupon, at 1:00 o'clock p.m., the hearing was
14 recessed, to reconvene at 10:30 o'clock a.m., Monday,
15 February 14, 1949.)

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