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LC

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date February 21, 1947

To Chairman Eccles

Subject: Effect on Regulation W of pos-

From Mr. West

sible termination of 1941 emergency.

*carry
for your information
return*

In his message to Congress of February 19, the President stated that he has under study the question of terminating the emergencies proclaimed in 1939 and 1941 and intends to take action as soon as circumstances permit. If he should terminate the emergency declared on May 27, 1941, the authority of the Board to prescribe consumer credit regulations, given by the Executive Order of August 9, 1943, will, in my opinion, automatically be terminated. There are certain technical arguments that can be made to the contrary, but these in my judgment are not substantial.

Section 5(b) of the Trading with the Enemy Act, on which the Executive Order is based, provides that "during the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate," regulate payments, etc.

The Executive Order provides that "by virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917, as amended, and by virtue of all other authority vested in me, and in order, in the national emergency declared by me on May 27, 1941, to promote the national defense and protect the national economy, it is hereby ordered * * *."

This reference to the emergency of May 27, 1941, coupled with references to the national defense program in the "Whereas" clauses of the Order, shows clearly that the President intended to exercise his powers for the duration of that emergency and not during the period of some other emergency. Some argument can be made that since the Act gives authority to the President during time of war or other emergency, the President's Executive Order was intended to be effective until the war is officially declared at an end or perhaps even until the end of the 1933 emergency (which has never been specifically terminated). The war, however, had not commenced on May 27, 1941, when the Order was issued; and it would be wholly unrealistic to say that the Order was intended to be in effect during the period of the 1933 emergency.

The question in the last analysis, however, depends upon the actual desires of the President. Accordingly, it is to be hoped that, if and when he terminates the 1941 emergency, he will clarify the matter by making a statement indicating that he is thereby terminating the Board's authority over consumer credit or, in the alternative, will take the necessary action to continue the authority in effect. If the Board has an opportunity to comment on the possible termination of the emergency, this might well be borne in mind.

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