

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date February 15, 1940

To Chairman Eccles

Subject: _____

From Mr. Morrill

During an informal discussion at the meeting of the Board on February 13, at which you were not present, reference was made to the procedure followed by the Federal Reserve Bank of New York in two recent cases in handling matters which required contacts with departments of the Government in Washington. In the first case, the matter was taken up directly by the New York Bank with the interested departments and in the latter case the matter was very satisfactorily handled through the Board.

It was the suggestion of the members of the Board who were present at the meeting that the two cases were a good illustration of the desirability of the Federal Reserve banks first taking matters of this kind up with the Board as suggested in its letter of January 24, 1938. It was also suggested that a memorandum be prepared containing the essential facts of the two cases so that the next time Mr. Harrison is in Washington, you can discuss them with him so that an understanding can be reached with respect to the manner of handling cases which arise in the future. The attached memorandum has been prepared for that purpose with the thought that you may wish to hand Mr. Harrison a copy to read as a basis for your discussion.

In the correspondence between Mr. Logan and Mr. Berle of the State Department, referred to in the attached memorandum, there is a statement by Mr. Logan that the Federal Reserve Bank of New York should stand ready and willing to act as a channel of communication between its member banks and the Government departments and officers in Washington, and, in response, Mr. Berle said the State Department welcomed the step that had been taken and hoped the questions raised by the banks might be channelled through the Federal Reserve Bank of New York to the Department for appropriate action. It is believed that after your discussion with Mr. Harrison a letter should be sent to Mr. Berle advising that matters of this kind will be handled through the Board rather than directly by the Federal Reserve banks.

Attachment.

CW

Under date of December 19, 1939, Acting Secretary of the Treasury Hanes sent to Chairman Eccles a copy of a letter to Governor Harrison dated December 15, 1939, with which was transmitted a copy of an opinion of the Attorney General concerning the applicability of the Johnson Act and the Neutrality Acts to transactions by foreign branches of American banks. The Board had had no information that the questions involved had been submitted to the Attorney General and since the correspondence indicated that the question arose in New York, Mr. Morrill, at the request of members of the Board, called Mr. Harrison on December 27, 1939, and inquired whether he knew how the questions originated.

Mr. Harrison advised Mr. Morrill that according to the Reserve bank's information the matter was originated with the Treasury by Mr. Lancaster, attorney for the National City Bank, and subsequently Mr. Foley asked Mr. Logan to come to Washington to discuss the questions. Mr. Harrison's understanding was that the original request to the Attorney General for an opinion was the result of Mr. Lancaster's presentation of his problems to the Treasury committee and Mr. Logan was called in after the request went to the Attorney General and after the latter's request for further information. Mr. Harrison added that subsequent to the conferences mentioned above the same New York lawyers became interested in a number of other problems and asked Mr. Logan to let them discuss these problems in his presence, which was done, and a series of questions relating to problems of commercial banking arising under the present Neutrality Act, which the outside lawyers formulated and which had nothing to do with the questions which the Attorney General considered, was sent, at the lawyers' request, by Mr. Logan to the State Department, but that as yet no reply had been received and probably the matter would be taken up again with the Department with a view to getting a reply if possible.

At about the time of the first conference of counsel at the Federal Reserve bank on the second series of problems, Mr. Logan called Mr. Dreibelbis on the telephone and told him that a number of attorneys representing New York banks had advised Mr. Logan that they would like to meet at the New York Bank for the purpose of discussing various questions which had arisen under the Neutrality Act and which they planned to submit to the State Department. Mr. Logan said that he saw no objection to complying with their request and Mr. Dreibelbis agreed but inquired as to the nature of the questions which might be discussed. Mr. Logan indicated by illustrations that they probably would be questions involving every day commercial transactions. Mr. Dreibelbis told Mr. Logan that very likely there would be many questions of this character and that the Board would be interested in being informed as to the types of problems the banks were meeting. Mr. Logan advised Mr. Dreibelbis that he would be glad to keep the Board informed but nothing further was heard about the matter until Mr. Morrill's conversation of December 27, 1939, with Mr. Harrison.

The day following that conversation Mr. Harrison addressed a letter to the Board with which were enclosed copies of correspondence which Mr. Logan had with the State Department relating to the second series of questions. In this correspondence the suggestion is made by Mr. Logan that the Federal Reserve Bank of New York act as a channel of communication between its member banks in the New York district and the Government departments and officers in Washington. Inasmuch as the questions dealt with in the Attorney General's opinion as well as those subsequently raised are of a character that may make them of interest to commercial banks in other Federal Reserve districts and may be discussed by such banks with other Federal Reserve banks, and are therefore of System interest, it would seem that this matter was one of the kind contemplated by the Board's letter of January 24, 1938, S-69, a copy of which is attached.

In a recent situation which also arose in New York and involved a ruling of the Post Office Department with respect to the application of the Neutrality Act to checks, drafts, and other negotiable instruments sent abroad, Mr. Sproul called Mr. Ransom on the telephone and suggested that it would be helpful if the Board could ascertain whether the Post Office ruling was the final word, as the commercial banks said that it would result in stopping a considerable part if not practically all of their foreign banking business.

This conversation took place on January 30, 1940, and immediately Mr. Williams of the Board's legal staff got in touch with representatives of the Post Office, State, and Justice Departments and found that they were working on the problem. Mr. Williams kept in close touch with the consideration being given to the matter and acted as a channel of communication between the interested departments of the Government and the Federal Reserve Bank of New York, submitting to the representatives of the departments information on the subject received by telephone and letter from the Federal Reserve Bank of New York. A new ruling was issued by the Post Office Department on February 9, 1940, which provided a satisfactory solution of the problem. Copies of this ruling were obtained by the Board as soon as issued and dictated over the telephone to Mr. Logan's secretary and Mr. Logan made it available immediately to the New York banks. A copy was also sent to Mr. Logan by mail on February 9. It is understood that the banks involved greatly appreciated the prompt and successful solution of the problem.

This is a case which indicates the desirability from the standpoint of the System as a whole of handling matters of this kind in the manner suggested in the Board's letter of January 24, 1938.

Mr. George L. Harrison, President,
Federal Reserve Bank of New York,
New York, New York.

Dear Mr. Harrison:

Following our telephone conversation and the receipt of your letter of December 28, 1939, I reported to the Board the information which you gave me regarding the developments leading up to the opinion of the Attorney General of the United States of December 7, 1939, under the Johnson Act and the Neutrality Act, and regarding the submission of certain questions to the State Department by Mr. Logan at the request of counsel for various New York banking institutions. I reported to the Board also my understanding from our telephone conversation that, while copies of the opinion of the Attorney General had been furnished to certain commercial banks in the New York district, you had not undertaken to make any distribution of these opinions to banks outside the New York district because you did not consider it appropriate for your bank to do so.

The first information that the Board had received regarding the questions submitted to the Attorney General was contained in the letter of December 19 from Acting Secretary of the Treasury Hanes and the enclosures transmitted with his letter.

As to the second matter, it is understood that Mr. Logan, about the time of the first conference of counsel at the Federal Reserve Bank on this subject, called Mr. Dreibelbis on the telephone and told him that a number of attorneys representing New York banks had advised Mr. Logan that they would like to meet at the New York Bank for the purpose of discussing various questions which had arisen under the Neutrality Act and which they planned to submit to the State Department. Mr. Logan said that he saw no objection to complying with their request and Mr. Dreibelbis agreed but inquired as to the nature of the questions which might be discussed. Mr. Logan indicated by illustration that they probably would be questions involving everyday commercial transactions. Mr. Dreibelbis told Mr. Logan that very likely there would be many questions of this character and that we would be interested in being informed as to the types of problems the banks were meeting. Mr. Logan advised Mr. Dreibelbis that he would be glad to keep us informed but Mr. Dreibelbis heard nothing further about the matter and it was not indicated to Mr. Dreibelbis that the New York Bank expected to participate in submitting the questions to the State Department.

The Attorney General's opinion dealt with the question whether foreign branches of American banks may buy and sell

obligations of the governments of belligerent states. There are banks in other Federal Reserve districts that have foreign branches. In addition, as you know, foreign branches of national banks and certain foreign banking corporations are subject to such regulations and restrictions as the Board of Governors may prescribe.

In reading over the correspondence on the second matter, the members of the Board noted particularly that Mr. Logan, in his letter of November 27 to Mr. Berle, stated that the questions raised by the members of the committee of counsel for various banks affected commercial banks primarily and that

"This is in furtherance of our belief that in this, as in other matters in connection with which such procedure may be desirable, the Federal Reserve Bank of New York, should stand ready and willing to act as a channel of communication between its member banks in this district and Government departments and officers in Washington."

Mr. Berle, in replying to Mr. Logan under date of December 2, said

"In response, let me say that the Department welcomes the step that has been taken, and hopes that the questions raised by the banks under the Neutrality Act of 1939 may be channelled through the Federal Reserve Bank of New York to the Department for appropriate action."

It was also noted that in the letter of December 8 addressed to Mr. Logan the committee of counsel stated that

"It is desired to take advantage of your offer to submit the same to Washington with such comments as seem desirable"

and that Mr. Logan, on the same date, in his letter to Honorable Cordell Hull, Secretary of State, transmitted the memorandum of counsel, referred to Mr. Logan's letter of November 27 to Mr. Berle and Mr. Berle's reply of December 2 and stated in the last paragraph that

"As I have said to the counsel for the banks in whose behalf the enclosed memorandum has been prepared, the Federal Reserve Bank of New York is glad to be of assistance in connection with this matter. I shall welcome being called upon if I can be of further service at any time."

The Board's attention was directed to the comment in the last paragraph of your letter of December 28 that

"In the absence of indication to the contrary from the State Department and the banks concerned we have assumed that the correspondence herein referred to should be treated as confidential."

A review of the matters discussed both in the opinion of the Attorney General of December 7 submitted to the Secretary of the Treasury and in the correspondence between Mr. Logan and the State Department indicates that the questions involved were presented on behalf of a number of New York banking institutions and that they are questions which might very well arise in the conduct of the affairs of commercial banks other than those represented by the counsel mentioned in the correspondence, including commercial banks outside the New York district. Other Federal Reserve banks might also be consulted about such questions or might be asked to act as channels of communication with Washington on similar questions. Since the questions involved are matters which might be of concern to various commercial banks and since they involve the interpretation of Acts of Congress affecting banking, the Board ~~is~~ sees no reason why interest in the rulings should be treated as confined to member banks of the New York district. The Board has an interest in them and it believes that they are matters of System interest.

You may recall that in the past the Federal Reserve Board has taken the position that when inquiries are received at Federal Reserve banks involving matters of common concern to the System as a whole, such inquiries should be submitted to the Board. On January 24, 1938, in its letter S-69, of which a copy is enclosed, the Board referred to the fact that from time to time matters have arisen at the Federal Reserve banks the effective disposition of which made it advisable that they be taken up with a Department or agency of the Government and that it had been the experience of the Board that more satisfactory results from the standpoint of the System as a whole have been obtained in such cases when the matter was brought to the attention of the Board by the Federal Reserve bank and, in turn, taken up by the Board, either separately or in conjunction with the Federal Reserve bank, with the Department or agency involved. Accordingly, in that letter, the Board suggested that, when such a question arises, the Federal Reserve bank communicate with the Board by letter or telegram advising in such detail as the circumstances may require regarding the matter. It was pointed out that, of course, this suggestion did not apply to routine matters but rather to other questions which the Federal Reserve bank felt should be taken up with Government Departments or agencies or to questions which involve System policy or procedure.

It seems to the Board that it should be clear that such a procedure is in the best interests of the Federal Reserve System and that no one Federal Reserve bank should assume the responsibility of being the channel through which matters of interpretation of Federal laws affecting banking or through which any other matter of System interest should be submitted to any Department or agency of the Government unless that procedure be approved in advance by the Board.

In these circumstances, the Board requests that when a Federal Reserve bank desires, or is invited as in the two classes of cases referred to in the beginning of this letter, to submit or participate in the submission to any Government Department or agency any question which may be of concern to the Board or which may be of System interest, the Board be advised immediately so that steps may be taken to determine how best to submit the questions, including the extent to which other Federal Reserve banks or the Board, or both, should take part and that the Board be furnished without delay all correspondence relating thereto.

Most matters of importance do not arrive at a point where action must be taken without having had some advance indication that they might arise which should give the Federal Reserve bank time within which it may communicate with the Board. The Board prefers for obvious reasons that this be done in a written communication addressed to the Board of Governors but if, for some exceptional reason, there is not sufficient time for this, a telephone call from your bank to my office will enable us to arrange to see that the matter is brought to the attention of the Board promptly.

Very truly yours,

Chester Morrill,
Secretary.