



STATEMENT RELATING TO S. 249, ON BEHALF OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, 1949 BEFORE THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

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The definition of the term "employer" contained in the National Labor Relations Act of 1935 specifically excluded the "United States" but it did not specifically mention Federal Reserve Banks. This definition in the 1935 Act would be restored by the present draft of S. 249. It is the view of our Board that the National Labor Relations Act of 1935 was not intended to apply and did not have application to the Federal Reserve Banks. However, the fact that Federal Reserve Banks are specifically exempted from the 1947 law and that this exemption would not be specifically contained in the new bill would create a legislative history which might be construed as evidence of an intention to remove the existing exemption of the Federal Reserve Banks -- which we do not believe is correct.

The Board of Governors feels strongly that it is in the interests of the Federal Reserve System and of the United States to retain in the proposed labor legislation the exemption of Federal Reserve Banks from the definition of the term "employer". It recommends that the language of the bill be so phrased as to continue this exemption in effect.

The reasons for this exemption may be briefly summarized as follows:

- (1) The Board of Governors of the Federal Reserve System was created as the agency of Congress which is specifically charged with

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the responsibility of approving all compensation of officers and employees of Federal Reserve Banks and of exercising general supervision over such banks. Accordingly, questions as to compensation and other benefits of employees must be considered by the Board here in Washington.

(2) Federal Reserve Banks are public institutions set up by Congress to perform governmental functions in the national interest, including their important operations in the statutory capacity of fiscal agents of the United States. They are instrumentalities and agencies of the United States, and as such should be exempt as is the United States.

(3) Strikes against a Federal Reserve Bank would be in effect strikes against the United States, with disastrous consequences to the operations of the Government, particularly in connection with its public debt transactions, and with a serious interruption to the flow of revenues into the Treasury.

Supervision of Federal Reserve Banks by Board of Governors of the Federal Reserve System. - The Federal Reserve Banks are subject to the general supervision of the Board of Governors of the Federal Reserve System, which issues regulations with respect to many of their operations. It also has power to suspend or remove for cause any officer or director of a Federal Reserve Bank. The law specifically provides that any compensation for officers or employees of Federal Reserve Banks is subject to the approval of the Board of Governors. Moreover, such matters as retirement and death benefits of employees,

insurance and hospital and medical benefits for them, benefits upon termination of employment and other related expenditures, are approved by the Board in accordance with System policies.

Since the compensation and other benefits of Federal Reserve Bank employees are determined finally by action of the board of Governors, negotiations between a Federal Reserve Bank and its employees with regard to these matters could not be effective in producing any final results. Such questions must be submitted to and considered by the Board in Washington. The Board, which consists of seven members appointed by the President by and with the advice and consent of the Senate, is, of course, a part of the United States Government and this has been so held by the Attorney General (30 Op. Atty. Gen., p. 308).

Inasmuch as the Federal Reserve Banks are not free to fix the salaries of their employees except with the approval of the Board of Governors, it would be futile to require the Federal Reserve Banks to engage in collective bargaining. Obviously it was not intended by Congress that the Board of Governors, the final arbiter on the matter of compensation and related matters, should participate in such collective bargaining. Both the Board and the Banks would be placed in an impossible position were the coverage of the National Labor Relations Act extended to the employees of the Reserve Banks. Moreover it would nullify the present provisions of the Federal Reserve Act with respect to salary approval by creating a conflict between the Federal

Reserve Act and the National Labor Relations Act. Congress foresaw problems of this kind when it made provision for the exemption of the United States from the labor law.

Public Character and Functions of the Federal Reserve Banks. -

The Federal Reserve System consists of the Board of Governors in Washington, the twelve regional Federal Reserve Banks, and the member banks, comprising national banks and such State banks as are admitted to membership. Of these the only ones for which we are requesting that the exemption be continued are the twelve Federal Reserve Banks. We are not, of course, requesting any such exemption for commercial banks.

Federal Reserve Banks are not private institutions organized for profit. They are essentially public in character and are operated for public governmental purposes in accordance with the mandate of Congress.

Although the law requires every member bank to hold stock in the Federal Reserve Bank of its district in an amount equal to a certain percentage of the member bank's capital stock and surplus, this does not give and was not intended to give the member banks any direct voice in the operations of the Reserve Bank. The stock may not be sold or transferred, and the only privileges accruing to a member bank from the stock are the right to receive a cumulative statutory dividend of six per cent per annum and to cast one vote, regardless of the number of shares held, in the election of six of the nine directors of the Reserve Bank.

Any surplus remaining upon liquidation of a Federal Reserve Bank, after payment of debts and dividend requirements, must, under the law, be paid to the United States. Thus, while the member banks own the Federal Reserve Bank stock, their position is similar to that of a holder of bonds or preferred stock rather than of common stock, as the entire residuary interest and ownership of the Reserve Banks is in the United States. The United States occupies a position which as a practical matter is analogous to that of owner or common stockholder of the Reserve Banks and the Board is the agency of the United States Government entrusted by law with the responsibility for effectuating the control inherent in this residuary ownership.

The most important functions of the Federal Reserve Banks are carried on in the field of national credit and monetary control. These include the purchase and sale of Government securities under the direction of the Federal Open Market Committee, which consists of the members of the Board and five representatives of the Federal Reserve Banks. The law requires that these open market operations "shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country" and also that "no Federal Reserve Bank shall engage or decline to engage in open market operations * * * except in accordance with the direction and regulations adopted by the Committee".

Federal Reserve Banks, through the issuance of Federal Reserve notes, furnish the bulk of the currency now used by the public. These notes are under the law "obligations of the United States". As of December 31, 1948, the total amount of currency in circulation in the country was \$28,224,000,000, of which Federal Reserve notes constituted \$23,918,000,000.

During 1947, Federal Reserve Banks handled 1,669,000,000 checks exclusive of Treasury checks. Many of these, of course, were checks payable to the United States for which credit was given by the Reserve Banks in the Treasurer's Account. They received and counted about 3,492,000,000 pieces of paper currency and 6,160,000,000 coins, in addition to tremendous operations in collecting so-called noncash items and handling coupons from bonds held in safekeeping. Before the Federal Reserve Banks were established, such currency and coin functions were performed by the Treasury.

Federal Reserve Banks hold the reserve balances of their member banks and enforce the reserve requirements prescribed by statute. They likewise are instruments through which the Board enforces its regulations relating to the extension of credit for the purchasing or carrying of securities registered on national securities exchanges and relating to the extension of consumer credit. These law enforcement functions are all obviously governmental functions performed for the benefit of the public and not for the benefit of banks or any private segment of the community.

Fiscal Agency Operations of the Federal Reserve Banks. -

Under the law the Reserve Banks are required to act as fiscal agents of the United States and as depositaries of the revenues of the Government. In this capacity they play a vital role in the handling of the public debt and in carrying out other Government financial operations. In 1920 Congress repealed the laws providing for subtreasuries of the United States and authorized the Secretary of the Treasury to utilize the Federal Reserve Banks for the purpose of performing any or all of the duties and functions of the subtreasuries. Many of these duties are now performed by the Federal Reserve Banks.

As a result, an enormous volume of transactions is carried on through the Federal Reserve Banks as agents for the Government. They carry the principal deposit accounts of the United States Treasury and handle much of the work entailed in issuing and redeeming the tremendous volume of Government securities, such as has been necessary in the past decade.

Checks drawn upon the Treasury of the United States are handled in two ways. Some of them, paper checks, are presented at the Federal Reserve Banks and forwarded by them to the Treasury Department in Washington for final payment. Others, the so-called punch card checks, are presented to the Federal Reserve Banks and actually paid by them without submission to the Treasury Department for examination or payment.

Perhaps the most important aspect of the services of the Reserve Banks as agents of the Government is in connection with the public debt. The Reserve Banks receive applications for Government securities from those wishing to buy, deliver the securities, and receive payment for them for the Treasurer's account. The Reserve Banks also redeem the securities as they mature, pay coupons representing interest on the securities, hold United States savings bonds in safe-keeping, and perform many other similar functions in servicing the public debt.

Since the functions of the Federal Reserve Banks, including their fiscal agency operations for the United States, are governmental functions, it must be recognized that for the purposes of the labor legislation they act as part of the United States in performing these operations and accordingly should be treated for this purpose in the same manner as the United States.

The Federal Reserve Banks have been held by the courts on various occasions to be agencies of the Federal Government. The Reserve Banks are vastly different from national banks. The latter are commercial banking institutions operating for the profit of their private shareholders. As I have indicated, this is not the case with the Reserve Banks. It would be difficult to find an instrumentality or agency of the Government other than the executive departments and establishments of the Government themselves whose functions are more closely tied in with Government operations and whose activities are more governmental in character than the Federal Reserve Banks.

Effect of Possible Federal Reserve Strike upon Government. -

If negotiations under collective bargaining with Federal Reserve Bank employees should fail to bring about agreements on all occasions, strikes or work stoppages might well occur. Such strikes would, it is submitted, be in effect strikes against the United States, with disastrous consequences to the operations of the Government. If a strike should occur at a time when the Treasury was engaged in a drive for raising funds through the sale of securities, such as the War Loan Drives during the recent war, or during refunding operations, the public debt transactions of the Government would be interrupted to the serious disadvantage of the Treasury and the public.

Not only would public debt transactions be held up in the event of a strike but the payment of checks issued by the Treasury which are presented to the Reserve Bank or Banks affected would be stopped or greatly delayed. More important, however, is the fact that checks drawn in favor of the Government could not be processed through the Reserve Banks and as a result the flow of revenues into the Treasury would be seriously interrupted.

For the reasons indicated, it is most important to the Federal Reserve System and to the United States itself that the exemption of the Federal Reserve Banks from the term "employer", as now provided in the labor law, should be continued in the proposed legislation and that no doubt of the intention of Congress to continue this exemption should

be allowed to arise by reason of the elimination from the law of the specific exemption now contained therein.

There are, of course, various ways in which the exemption of Federal Reserve Banks from the term "employer" could be recognized in the proposed legislation. For example, it could be done by providing in section 403 of S. 249 that the term "employer" should have the same meaning as when used in the National Labor Relations Act but "shall not include any Federal Reserve Bank". Another method would be to set forth specifically in section 403 the meaning of the term "employer" as used in the Act but in such a way as to exempt Federal Reserve Banks.

We earnestly urge that the Committee give this matter its favorable consideration.

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