

A meeting of the Federal Reserve Board was held in Washington on
Saturday, September 16, 1933, at 11:30 a. m.

PRESENT: Mr. Black, Governor
Mr. Miller
Mr. James
Mr. Thomas
Mr. Szymczak
Mr. O'Connor

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary
Mr. Martin, Assistant to the Governor
Mr. Paulger, Chief of the Division
of Examinations
Mr. Wingfield, Assistant Counsel

The Board considered and acted upon the following matters:

Telegraphic reply on September 15, 1933, approved by six members of the Board, to a letter dated September 11 from Mr. Peyton, Federal Reserve Agent at Minneapolis, stating that it has been the practice to have three men other than the Federal reserve agent bonded and authorized to issue and retire Federal reserve notes, and to handle other currency transactions for the Federal reserve agent, and that, in view of the termination of the services of Mr. Mosher as Assistant Federal Reserve Agent, it is requested that the Board approve the designation of Mr. E. W. Swanson, who is acting as Manager of the Bank Examination Department, to act as representative of the Federal reserve agent, acting as alternate for Mr. F. M. Bailey and Mr. O. S. Powell in the performance of currency duties. The reply stated that the Board approves the designation of Mr. Swanson as the agent's representative to act as alternate for Messrs. Bailey and Powell in the performance of currency duties at the bank but that Mr. Swanson should execute a surety bond in the same form as used in the case of Mr. Powell, in the amount of \$100,000, and should not enter

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upon his duties until the agent has received advice of the Board's approval of the bond.

Approved.

Telegraphic reply on September 15, 1933, approved by five members of the Board, to a telegram dated September 8 from Mr. Wood, Federal Reserve Agent at St. Louis, referring to condition number 16 imposed by the Board in its letter of August 30, 1933, approving the application of the Fordyce Bank & Trust Company, Fordyce, Arkansas, for membership in the Federal Reserve System, and stating that the bank proposes to set up accrued interest of approximately \$4,000 in order to provide the reserve for depreciation required by the condition of membership. The reply observed that the applicant has not been operating on an accrual basis, and that no provision is made for reserve for interest accrued on deposits or accrued expenses; and stated that the Board would not consider the proposed plan of providing a reserve for depreciation as a compliance with the condition of membership and that such reserve should be provided from actual collected earnings and/or contributions.

Approved.

Mr. Morrill presented for the Board's consideration the application of the Security National Bank of Greensboro, Greensboro, North Carolina, for permission to exercise full fiduciary powers under the provisions of Section 11(k) of the Federal Reserve Act. It was stated that the applicant bank opened for business as a national bank on August 28, 1933, and is practically 100% liquid; that it is the only commercial bank operating in Greensboro, which is an important community in North Carolina; that there is no corporation in the city doing a trust business, three other banks in the city being in liquidation; and that it proposes to select and take such trusts from the closed North

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Carolina Bank and Trust Company as seem desirable and can be transferred to it by court order. It was stated also that the applicant institution is a conversion of The Guaranty Bank of Greensboro, a nonmember State bank which was an outgrowth of the North Carolina Bank and Trust Company which was not licensed to reopen following the banking holiday; that the capital structure of the applicant consists of \$300,000 preferred stock owned by the Reconstruction Finance Corporation and of \$300,000 common stock owned by the State Commissioner of Banks of North Carolina as liquidating agent of the North Carolina Bank and Trust Company and that no examination of the trust department of the old bank has been made either by a national bank examiner or an examiner from the Federal Reserve Bank of Richmond. Mr. Morrill said that, in the circumstances, consideration of the application involved two important questions of policy which the Board would doubtless wish to consider in taking action in connection therewith, namely: (1) whether the Board would desire to approve the application without first requiring an examination to be made of the trust department of the North Carolina Bank and Trust Company by either a national bank examiner or an examiner from the Federal Reserve Bank of Richmond, and (2), whether the Board would desire to grant trust powers to a bank the entire capital stock of which is owned by public agencies, involving a total absence of private capital. With respect to these matters, Mr. Morrill stated that a recent examination had been made of the trust department of the North Carolina Bank and Trust Company by a State Bank Examiner, in whom the Chief Examiner at the Federal Reserve Bank of Richmond had confidence, and that the Board's Division of Examinations had reviewed such examination report and after making careful inquiry regarding it was willing to accept it in lieu of a report by a national bank examiner or an examiner from the Federal reserve bank. It was stated also that

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the management of the applicant bank had apparently been carefully selected; that the trust officer and assistant trust officer were formerly connected with the trust department of the North Carolina Bank and Trust Company and their records and reputation appeared to be good; and that the Comptroller of the Currency and the executive committee of the Federal Reserve Bank of Richmond recommend that the trust powers applied for be granted.

After discussion, upon motion of Mr. Miller, which was unanimously adopted, the Board approved the application of the Security National Bank of Greensboro for permission to act, when not in contravention of State or local law, as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State of North Carolina, the exercise of all such rights being subject to the provisions of the Federal Reserve Act and the regulations of the Federal Reserve Board.

Memorandum dated September 15, 1933, from Mr. Morrill stating that at the meeting of the Board on August 4, 1933, the Board authorized the Secretary, and any Assistant Secretary charged with the responsibility of approving vouchers, to execute the administrative approval of all routine vouchers for office supplies amounting to not more than \$10.00, all vouchers for the cost of telegraph and telephone services and all vouchers for bills rendered by the Government Printing Office, without the necessity of such vouchers being submitted to the Governor or a member of the Executive Committee of the Board for approval, and that it is recommended that the above authorization be amended to include:

1. Purchase orders for office supplies amounting to not more than \$10.00.
2. Repairs to equipment where the amount does not exceed \$10.00.
3. Requisitions for printing and binding work, which is done by the Government Printing Office.

Approved.

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Governor Black stated that Mr. H. Lane Young, Vice President and Executive Manager of the Citizens and Southern National Bank, Atlanta, Georgia, had written a letter to Mr. Martin under date of September 14, 1933, stating that, after considerable discussion with the Atlanta Clearing House Association and correspondence directly and through the Federal Reserve Bank of Atlanta with the Federal Reserve Board, the Atlanta banks mentioned below had definitely reached the conclusion that the absorption of exchange on checks drawn on non-par points by balances maintained in the bank in any way, shape or form is not permitted under the provisions of the Banking Act of 1933. He said that Mr. Young had stated in his letter that his institution, together with the First National Bank of Atlanta, the Fulton National Bank, and the Trust Company of Georgia, were notifying their correspondents that they no longer value a correspondent's collected balance for the purpose of absorbing exchange as, in their opinion, that was the proper course to be taken under the law, but that, in order to retain their business, the banks must have protection against banks in Birmingham, Chattanooga and other points in the Southeast territory and such protection would have to come through a definite ruling from the Federal Reserve Board on the subject. Mr. Morrill reported that he had talked over the long distance telephone to Mr. Newton, Federal Reserve Agent at Atlanta in regard to the action of the Clearing House at Atlanta with respect to absorption of exchange on checks and had mentioned the fact that Mr. Martin had received the letter from Mr. Young referred to above. Mr. Morrill said that Mr. Newton did not understand why Mr. Young had made reference to other banks in Birmingham, Chattanooga, et al, inasmuch as Mr. Young was not present at the meeting which was held in Atlanta on September 14th, but that Mr. Newton said that he had written a letter setting forth what had happened and the plan

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for pursuing the matter further. Mr. Morrill stated that, while Mr. Newton said that he had not attended the meeting, he indicated that Mr. Robert S. Parker, Counsel for the Federal Reserve Bank of Atlanta, had done so and that it had been decided at the meeting that there should be called as soon as practicable a meeting of representatives of clearing houses in the southeastern part of the country for bringing about action similar to that taken by the Atlanta Clearing House. Governor Black stated that, in his opinion, the Board, in replying to Mr. Newton's letter should state its position clearly and forward copies of such letter to all other Federal reserve agents with a covering letter requesting the agents to take the matter up with any of the clearing house associations in their respective districts that might have adopted practices which in any way conflicted with the position taken by the Board, and to endeavor to have any such associations which were following conflicting practices to cooperate voluntarily in adjusting such differences. Governor Black suggested also that the Board should have a clear statement of its position on this subject for presentation at its meeting with the Federal Advisory Council to be held on Tuesday next.

After discussion, it was the consensus of those present that the comments and suggestions of Governor Black expressed the attitude of the Board, and that, upon receipt of Mr. Newton's letter, an appropriate reply should be drafted for the Board's consideration.

Mr. Morrill reported that he had discussed with the Comptroller's Office the question of publishing in the Federal Reserve Bulletin, the opinion rendered by the Attorney General under date of September 7, 1933, and of distributing copies thereof, in regard to affiliates, which is as follows:

"I have the honor to refer to your letter of August 23rd, requesting my reconsideration of the questions submitted in your letter of August 11th as arising under the Banking Act of 1933.

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"I understand from your letters and from conferences between members of our respective Departments that the Comptroller has called upon the national banks to render reports and, in connection therewith, to furnish reports of their affiliates, as provided by Section 27 of the Banking Act, and the banks, finding it burdensome or otherwise objectionable to follow the letter of the statute and conceiving that it may not be literally applied in all instances, have submitted to your Department many questions with requests for rulings. As stated in my letter of August 18th, I cannot properly undertake to resolve such questions for the banks.

"You refer to the duty of the Comptroller to determine whether or not the banks have complied with the statutory obligation to furnish reports of their affiliates in response to his call. This question, I think, cannot properly be said to arise except as particular banks may fail or refuse to furnish the reports.

"You also call attention to the statutory provision concerning the examination of affiliates in connection with examination of national banks. Section 28 (a) provides for examining affiliates 'as shall be necessary to disclose fully the relations between such bank and such affiliates and the effect of such relations upon the affairs of such bank.' The ordinary and preferable course would be to decide the question of the Comptroller's power to examine particular affiliates as occasion may arise and in the light of the facts and circumstances then apparent.

"While, as stated, I prefer not to pass upon these questions except as particular cases actually arise, it does not seem objectionable to say that I perceive the force of your Solicitor's conclusion that ownership and control through majority stockholding does not include a holding by a bank merely as executor or in some other such fiduciary or representative capacity, subject to control by a court, or by a beneficiary or a principal, and without the incentive and opportunities which might arise from a holding of the stock by the bank as its own property.

"Upon the question of excluding from the operation of the statute classes of concerns which the bank owns or controls, or by which the bank is owned or controlled, or in which a majority of the directors are also directors of the bank, upon consideration of the nature of the business of the concern or the manner in which ownership or control was obtained, the only safe course is to assume that the statute means just what it says, with the burden upon any one assuming an exception in the particular case to establish it. In interpreting the Act of Congress I could not properly be concerned with the scruples of the banks about literal compliance, but it is nevertheless worthy of note that the Senate Committee which reported the Bill stated a purpose to discourage 'affiliates of all kinds.' (S. Rept. 77, p. 10) I am familiar with the statements of members of Congress made to your Department and to mine, that

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Congress did not intend to go so far as apparently it has in the definition of 'affiliates.' However this may be, the executive department must accept the law as Congress has written it, leaving it to Congress to correct by amendment any inequities which may appear.

"To illustrate the difficulties confronting us in any attempt to distinguish between 'affiliates' upon a consideration of the nature of their business, I invite your attention to the following: Section 13 of the Act regulates certain transactions between a bank and its affiliate -- and it is quite probable that the reports by and examinations of affiliates are required largely in aid of this and similar provisions. If an unsecured loan, forbidden without qualification by Section 13, is to be deemed as forbidden when the affiliate is engaged in one business but permissible if the affiliate is engaged in another, perhaps equally hazardous, my attention has not yet been directed to any provision making such a distinction.

"I have thus gone into the matter at some length in order that you may understand the difficulties that would be encountered in attempting to answer at this time the questions submitted by you and, aside from that, the apparent inadvisability of doing so. Please be assured, however, that I shall be glad to advise you promptly and definitely, upon your request, in connection with any particular cases in which banks may fail to submit reports of 'affiliates,' observing the letter of the statutory definition, or in which it may be desired to make some examination and the right to do so is challenged by the parent bank or by the 'affiliate.'"

Mr. Morrill stated that he had been informed by Mr. Awalt, Deputy Comptroller of the Currency that, while the Comptroller was not satisfied with the opinion, he felt that it was desirable to have it published in the Federal Reserve Bulletin and to have copies thereof given out in response to inquiries.

After discussion, the Board authorized the publication of the foregoing opinion in the September issue of the Federal Reserve Bulletin and authorized the Secretary to distribute copies of the opinion to all Federal reserve agents.

Reports of Standing Committee dated September 14 and 15, 1933, recommending approval of the following changes in stock at Federal reserve banks:

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<u>Application for ORIGINAL Stock:</u>	<u>Shares</u>	
<u>District No. 5.</u> Citizens National Bank of Hampton, Hampton, Virginia.	285	285
 <u>Applications for ADDITIONAL Stock:</u>		
<u>District No. 10.</u> Colorado Bank & Trust Company, Delta, Colo. (Increase in surplus)	1	
Liberty National Bank, Oklahoma City, Okla. (Issue of Preferred stock, partly offset by reduction in Com- mon stock and surplus)	<u>192</u>	193
 <u>Applications for SURRENDER of Stock:</u>		
<u>District No. 7.</u> First National Bank, Audubon, Iowa. (Voluntary liquidation, succeeded by First State Bank of Audubon, Iowa, nonmember)	75	75
<u>District No. 10.</u> First National Bank, Kingfisher, Okla.	21	21
<u>District No. 11.</u> First National Bank, Cameron, Texas. (Voluntary liquidation, succeeded by First National Bank <u>in</u> Cameron, Texas)	90	90
	<u>Total</u>	<u>186</u>

Approved.

Thereupon the meeting adjourned.

Wesley H. ...
Secretary.

Approved:

E. R. Hack
Governor.